

103

U.S. GENERAL ACCOUNTING OFFICE'S REPORT ON THE COURT PLANNING PROCESS

(103-53)

Y 4.P 96/11:103-53

U.S. General Accounting Office's Re... NG

BEFORE THE
SUBCOMMITTEE ON
PUBLIC BUILDINGS AND GROUNDS
OF THE
COMMITTEE ON
PUBLIC WORKS AND TRANSPORTATION
HOUSE OF REPRESENTATIVES
ONE HUNDRED THIRD CONGRESS

FIRST SESSION

OCTOBER 7, 1993

Printed for the use of the Committee on Public Works and Transportation



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U.S. GENERAL ACCOUNTING OFFICE'S REPORT ON THE COURT PLANNING PROCESS, FEDERAL JUDICIARY SPACE, LONG-RANGE PLANNING PROCESS NEEDS REVISION

THURSDAY, OCTOBER 7, 1993

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON PUBLIC BUILDINGS AND GROUNDS,
COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION,
Washington, DC.

The subcommittee met, pursuant to call, at 9:03 a.m., in room 2167, Rayburn House Office Building, Hon. James A. Traficant (chairman of the subcommittee) presiding.

Mr. TRAFICANT. The subcommittee will now recognize the gentleman from Tennessee for his opening statement first.

Mr. DUNCAN. Mr. Chairman, thank you, and I would like to simply say that I appreciate the fact that you have called this hearing. I think the findings of this report are very dramatic, and I also know that we are now in this subcommittee aggressively challenging some of the requests that come before us and, finally, we are questioning some of the costs of these buildings which I think is certainly a step in the right direction.

We live in an era when the taxpayer is justifiably fed up with wasteful Federal spending. A nationwide poll released by the Associated Press on September 6, 1993, found that 95 percent of the American people believe that the Federal Government is wasting very large amounts of money. Frankly, I think most of us share this view as well. A brief look at what has been reported in the press this year about the cost of the Federal judiciary further confirms the results of this poll.

A Chicago newspaper reported that the two Federal judges in Hammond, Indiana, have pledged never to enter the new \$60 million Federal courthouse that was built on a downtown site. This is despite the fact that Congress approved this site. The site has been endorsed by the mayor of Hammond, the local bar association, and the business community there. It has been reported in the press that critics of the judges' position say the jurists want the courthouse on a site more convenient to their suburban homes.

This is outrageous and, in fact, I feel that Federal judges who do this type of thing would be, if it is true, would be guilty of gross dereliction of duty and should be considered for impeachment.

We are disturbed also by reports that were contained in the August 30, 1993, edition of the Phoenix Gazette which pointed out the proposed Federal courthouse in Phoenix will cost \$216 per square

foot. The State of Arizona was able to build its new State Supreme Court building, which opened in 1991, for \$93 per square foot. Taxpayers have a hard time understanding why they must pay more for Federal courthouses—that much more.

The Saint Louis Post Dispatch reported on May 16, 1993, that when the new U.S. courthouse downtown in Saint Louis opens for business in 1997, it will be the tallest building in Saint Louis and the paper called it a \$215 million, 600 foot monument to the expansion of the Federal judiciary.

The Saint Petersburg Times, on May 14, 1993, reported that because of high ceilings in the courtrooms on several floors, the planned Federal courthouse in Tampa will be as tall as the typical 30 story office building. In fact, it will be one of the tallest buildings in downtown Tampa upon completion. The paper commented that “justice will be raised to new heights, about 30 stories, to be exact.”

Another example of wasteful spending by the Federal judiciary was cited in the February 9, 1993, edition of the Saint Louis Star Tribune. Federal judges in Saint Louis demanded, according to the paper, that one of their three satellite courtrooms be moved right next door to their offices so they would not have to go through a public corridor to reach it. The cost to taxpayers to allow judges to avoid the inconvenience of having to walk down the hall was \$381,000. This is ridiculous.

Obviously, the subcommittee cannot examine in total detail every proposed courthouse and Federal office building project. The GSA and the Administrative Office of the Courts are appropriated millions of dollars by the Congress to hire professionals to perform this function. However, according to this GAO report, now, apparently, some very unqualified people have been making key decisions in this area on some of these things in the past.

This subcommittee can, and I think will, take unilateral action in a bipartisan manner to reduce costs. For example, in June of this year the subcommittee, led by Chairman Traficant, approved a 10 percent across-the-board cut in new Federal courthouse construction. This action was approved by the full committee and the House. The subcommittee can and will isolate wasteful Federal building projects.

Last year, with the assistance of Congresswoman Eleanor Holmes Norton, we rejected the Secret Service’s request to build a new headquarters building in Washington on a one-acre site which would have cost taxpayers a ridiculous \$70 million plus. I am confident we will continue to initiate similar actions.

The report we receive today from the GAO allows us the opportunity to pause and ask the question, “How valid is the long-range planning method utilized by the Federal courts to request billions of dollars in funding from Congress for the construction, renovation and expansion of Federal courthouses?”

A few quotes from the GAO’s report answered this question in a dramatic way. “GAO found that the Administrative Office of the Courts’ process for projecting long-range space needs did not produce results that were sufficiently reliable to form the basis for congressional authorization and funding approval of new construc-

tion and renovation projects for court space." The implications of this statement are dramatic, indeed.

The report states that the Administrative Office of the Courts has overestimated its space needs in 65 Federal court districts over the next 10 years by three million square feet. This translates into a potential waste of \$1.1 billion. The report calls into question the degree to which the Federal courts are using their current supply of space.

Page 6 of the report concludes that "the GAO position was that additional space is not warranted until the caseload increases to the level more staff are needed." Any reasonable reading of the statistics in this report leads to the conclusion that the Federal courts either have too many staff or too much space.

As a former criminal court judge, I know that courtrooms are empty for many hours during the day. We need to be more innovative in utilizing the current supply of Federal courthouse space. The courts should explore the use of shared courtrooms. The sharing of court facilities with the State courts should also be explored before building new and very expensive and lavish facilities.

As a Nation, we are \$4.2 trillion in debt, and we recently raised the national debt limit to \$4.9 trillion. We are losing almost a billion dollars a day on top of that. We cannot afford to waste \$1 billion, let alone billions more, on these types of Taj Mahal palaces.

GAO recommends that they adopt a more reliable method to determine future space needs, and I will be interested to hear the representatives of AOC's reaction to this report.

On a positive note, I compliment the AOC for being one of the few Federal agencies to develop a long-range capital improvement program. However, this process, according to the GAO, is flawed, and that is why we are here today.

I simply will conclude by saying that it is not just us who are concerned about this, Mr. Chairman. We have had Senator Cohen, from Maine, Senator Simpson, Senator Dorgan from North Dakota, many others have spoken out about the problems and abuses that are occurring. Representative Glickman took the floor a few months ago and spoke out about this, and several Members from around the country are noticing the things that are occurring. And if we were not noticing them and doing something about it, the press all over the country is very, very concerned about the ridiculous waste that is occurring.

So I am pleased to see these things are now being questioned. I applaud your leadership, Mr. Chairman. I think you are one of the finest Members of this entire Congress and I appreciate what you are trying to do in calling and conducting this hearing.

Thank you very much.

[Mr. Duncan's prepared statement follows:]

STATEMENT OF CONGRESSMAN JOHN J. DUNCAN, JR.

I APPLAUD CHAIRMAN TRAFICANT FOR HIS BIPARTISAN EFFORT TO TRANSFORM OUR SUBCOMMITTEE FROM A "RUBBER STAMP" FOR THE EXPENDITURE OF BILLIONS OF TAX DOLLARS ON NEW FEDERAL OFFICE BUILDINGS AND COURTHOUSES. WE ARE NOW AGGRESSIVELY CHALLENGING THESE REQUESTS. TODAY'S HEARING IS ANOTHER STEP IN THIS DIRECTION, THANKS TO THE LEADERSHIP OF OUR CHAIRMAN.

WE LIVE IN AN ERA WHEN THE TAXPAYER IS JUSTIFIABLY FED UP WITH WASTEFUL FEDERAL SPENDING. A NATIONWIDE POLL RELEASED BY THE ASSOCIATED PRESS ON SEPTEMBER 6, 1993, FOUND THAT 95% OF THE AMERICAN PEOPLE BELIEVE THAT THE FEDERAL GOVERNMENT IS WASTING THEIR MONEY. FRANKLY, I SHARE THIS VIEW AS WELL.

A BRIEF LOOK AT WHAT HAS BEEN REPORTED IN THE PRESS THIS YEAR ABOUT THE COST OF THE FEDERAL JUDICIARY FURTHER CONFIRMS THE RESULTS OF THIS POLL.

CHICAGO NEWSPAPERS REPORTED THAT, "THE TWO FEDERAL JUDGES IN HAMMOND, INDIANA HAVE PLEDGED NEVER TO ENTER THE NEW \$60 MILLION FEDERAL COURTHOUSE IF IT IS BUILT ON THE DOWNTOWN SITE." THIS IS DESPITE THE FACT THAT CONGRESS APPROVED THIS SITE, THE SITE HAS BEEN ENDORSED BY THE MAYOR OF HAMMOND, THE LOCAL BAR ASSOCIATION, AND BUSINESS COMMUNITY. IT HAS BEEN REPORTED IN THE PRESS THAT, CRITICS OF THE JUDGES' POSITION SAY THE JURISTS WANT THE COURTHOUSE ON A SITE MORE CONVENIENT TO THEIR SUBURBAN HOMES. THIS IS OUTRAGEOUS.

WE ARE DISTURBED BY REPORTS IN THE AUGUST 30, 1993 EDITION OF THE PHOENIX GAZETTE WHICH POINT OUT THAT THE PROPOSED FEDERAL COURTHOUSE IN PHOENIX WILL COST \$216 PER SQUARE FOOT. THE STATE OF ARIZONA WAS ABLE TO BUILD ITS NEW SUPREME COURT BUILDING, WHICH OPENED IN 1991, FOR \$93 PER SQUARE FOOT. TAXPAYERS HAVE A HARD TIME UNDERSTANDING WHY THEY MUST PAY MORE FOR FEDERAL COURTHOUSES.

THE ST. LOUIS DISPATCH REPORTED ON MAY 16, 1993, THAT "WHEN THE NEW U.S. COURTHOUSE DOWNTOWN OPENS FOR BUSINESS IN 1997, IT WILL BE THE TALLEST BUILDING IN ST. LOUIS--A \$250 MILLION, 600 FOOT MONUMENT TO THE EXPANSION OF THE FEDERAL JUDICIARY."

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THE ST. PETERSBURG TIMES ON MAY 14, 1993, REPORTED THAT BECAUSE OF HIGH CEILINGS IN COURTROOMS ON SEVERAL FLOORS, THE PLANNED FEDERAL COURTHOUSE IN TAMPA WILL BE AS TALL AS THE TYPICAL 30-STORY OFFICE BUILDING. IN FACT, IT WILL BE ONE OF THE TALLEST BUILDINGS IN DOWNTOWN TAMPA UPON COMPLETION. THE PAPER COMMENTED THAT, "JUSTICE WILL BE RAISED TO NEW HEIGHTS--ABOUT 30 STORIES TO BE EXACT."

ANOTHER EXAMPLE OF WASTEFUL SPENDING BY THE FEDERAL JUDICIARY WAS CITED IN THE FEBRUARY 9, 1993, EDITION OF THE ST. LOUIS STAR TRIBUNE. "FEDERAL JUDGES IN ST. LOUIS DEMANDED THAT ONE OF THEIR THREE SATELLITE COURTROOMS BE MOVED RIGHT NEXT DOOR TO THEIR OFFICES, SO THEY WOULDN'T HAVE TO GO THROUGH A PUBLIC CORRIDOR TO REACH IT. THE COST TO TAXPAYERS TO ALLOW JUDGES TO AVOID THE INCONVENIENCE OF HAVING TO WALK DOWN THE HALL IS \$381,000." THIS IS RIDICULOUS.

OBVIOUSLY, THIS SUBCOMMITTEE CANNOT EXAMINE IN DETAIL EVERY PROPOSED COURTHOUSE AND FEDERAL OFFICE BUILDING PROJECT. THE GENERAL SERVICES ADMINISTRATION (GSA) AND THE ADMINISTRATIVE OFFICE OF THE COURTS (AOC) ARE APPROPRIATED MILLIONS OF DOLLARS BY THE CONGRESS TO HIRE PROFESSIONALS TO PERFORM THIS FUNCTION. THEY HAVE A RESPONSIBILITY TO PROVIDE US WITH PRUDENT, COST-EFFECTIVE RECOMMENDATIONS. THE ROLE OF THIS SUBCOMMITTEE, IN MY OPINION, IS NOT TO MICROMANAGE. BUT TO PERFORM OVERSIGHT.

HOWEVER, THE SUBCOMMITTEE CAN AND WILL TAKE UNILATERAL ACTION, IN A BIPARTISAN MANNER, TO REDUCE COSTS. FOR EXAMPLE, IN JUNE OF THIS YEAR THE SUBCOMMITTEE, LED BY CHAIRMAN TRAFICANT, APPROVED A 10% ACROSS-THE-BOARD CUT IN NEW FEDERAL COURTHOUSE CONSTRUCTION. THIS ACTION WAS APPROVED BY THE FULL COMMITTEE AND THE HOUSE.

THE SUBCOMMITTEE CAN AND WILL ISOLATE WASTEFUL FEDERAL BUILDING PROJECTS. LAST YEAR, WITH THE ASSISTANCE OF CONGRESSMAN ELEANOR HOLMES NORTON, WE REJECTED THE SECRET SERVICE'S REQUEST TO BUILD A NEW HEADQUARTERS BUILDING IN WASHINGTON ON A ONE ACRE SITE WHICH WOULD HAVE COST TAXPAYERS A RIDICULOUS \$70 MILLION.

I AM CONFIDENT THAT WE WILL CONTINUE TO INITIATE SIMILAR ACTIONS.

THE REPORT WE RECEIVE TODAY ALLOWS US THE OPPORTUNITY TO PAUSE AND ASK THE QUESTION: HOW VALID IS THE LONG RANGE PLANNING METHOD UTILIZED BY THE FEDERAL COURTS TO REQUEST BILLIONS OF DOLLARS IN FUNDING BY CONGRESS FOR THE CONSTRUCTION, RENOVATION AND EXPANSION OF FEDERAL COURTHOUSES?

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A FEW QUOTES FROM GAO'S 106 PAGE REPORT ANSWER THIS QUESTION IN A DRAMATIC WAY.

"GAO FOUND THAT THE ADMINISTRATIVE OFFICE OF THE COURTS PROCESS FOR PROJECTING LONG-RANGE SPACE NEEDS DID NOT PRODUCE RESULTS THAT WERE SUFFICIENTLY RELIABLE TO FORM THE BASIS FOR CONGRESSIONAL AUTHORIZATION AND FUNDING APPROVAL OF NEW CONSTRUCTION AND RENOVATION PROJECTS FOR COURT SPACE." THE IMPLICATIONS OF THIS STATEMENT ARE VERY DRAMATIC.

THE REPORT STATES THAT, "THE ADMINISTRATIVE OFFICE OF THE COURTS HAS OVERESTIMATED ITS SPACE NEEDS IN 65 FEDERAL COURT DISTRICTS OVER THE NEXT TEN YEARS BY THREE MILLION SQUARE FEET." THIS TRANSLATES INTO A POTENTIAL WASTE OF \$1.1 BILLION DOLLARS.

THE REPORT CALLS INTO QUESTION THE DEGREE TO WHICH THE FEDERAL COURTS ARE USING THEIR CURRENT SUPPLY OF SPACE. PAGE SIX OF THE REPORT CONCLUDES, "THE GAO POSITION WAS THAT ADDITIONAL SPACE IS NOT WARRANTED UNTIL THE CASELOAD INCREASES TO THE LEVEL MORE STAFF ARE NEEDED." ANY REASONABLE READING OF THE STATISTICS IN THIS REPORT LEADS TO THE CONCLUSION THAT THE FEDERAL COURTS EITHER HAVE TOO MANY STAFF OR TOO MUCH SPACE.

AS A FORMER CRIMINAL COURT JUDGE, I KNOW THAT COURTROOMS ARE EMPTY FOR MANY HOURS DURING THE DAY. WE NEED TO BE MORE INNOVATIVE IN UTILIZING THE CURRENT SUPPLY OF FEDERAL COURTHOUSE SPACE. THE COURTS SHOULD EXPLORE THE USE OF SHARED COURTROOMS. THE SHARING OF COURT FACILITIES WITH THE STATE COURTS SHOULD ALSO BE EXPLORED BEFORE BUILDING NEW COURTHOUSES.

AS A NATION WE ARE \$4.2 TRILLION DOLLARS IN DEBT. WE ARE LOSING ALMOST \$1 BILLION A DAY ON TOP OF THAT. WE CANNOT AFFORD TO WASTE ONE DOLLAR, LET ALONE \$1.1 BILLION.

GAO RECOMMENDS THAT THE AOC ADOPT A MORE RELIABLE METHOD TO DETERMINE FUTURE SPACE NEEDS.

I WILL BE INTERESTED TO HEAR THE REPRESENTATIVES OF AOC'S REACTION TO THIS REPORT.

ON A POSITIVE NOTE, I COMPLIMENT THE AOC FOR BEING ONE OF THE FEW FEDERAL AGENCIES TO DEVELOP A LONG RANGE CAPITAL IMPROVEMENT PROGRAM. HOWEVER, THIS PROCESS, ACCORDING TO THE GAO, IS FLAWED. THAT IS WHY WE ARE HERE TODAY.

THIS SUBCOMMITTEE AND THE CONGRESS EXPECTS AND WILL INSIST ON RELIABLE DATA AND METHODOLOGY FROM WHICH TO AUTHORIZE AND APPROPRIATE FEDERAL FUNDS. IF THE GSA AND THE AOC CANNOT COME TO TERMS WITH THIS ISSUE, THEN WE WILL SEEK A LEGISLATIVE REMEDY.

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OUR SUBCOMMITTEE IS COMMITTED, IN A BIPARTISAN MANNER, TO REDUCING WASTEFUL SPENDING IN THE FEDERAL BUILDING PROGRAM.

I AM PLEASED THAT THE SUBCOMMITTEE IS NOW JOINED IN OUR COST-CUTTING EFFORTS BY THE NEW GENERAL SERVICES ADMINISTRATOR, ROGER JOHNSON. ADMINISTRATOR JOHNSON IS TAKING A BOLD STEP, THROUGH HIS "SUSPEND AND REVIEW" PROGRAM, TO TRY TO REDUCE THE COST OF 188 PROPOSED FEDERAL OFFICE BUILDINGS AND COURTHOUSES. I APPLAUD THIS EFFORT AND AM ENCOURAGED BY HIS APPOINTMENT.

WE RECOGNIZE THAT THERE IS A LEGITIMATE NEED TO BUILD NEW COURTHOUSES. WE RECOGNIZE THAT THERE IS A NEED FOR SECURITY IN OUR FEDERAL COURTHOUSES. BUT, WE DO NOT NEED TO BUILD A SERIES OF "TAJ MAJHALS."

THE COURTS ARE TAKING SOME STEPS TO REDUCE COSTS WHICH SHOULD BE ENCOURAGED.

I WAS PLEASED TO SEE THAT JUDGE BLOOMFIELD, CHAIRMAN OF THE JUDICIAL CONFERENCE COMMITTEE ON SECURITY, SPACE AND FACILITIES, IN CONGRESSIONAL TESTIMONY ON SEPTEMBER 23, 1993, STATED THAT THE COURTS HAVE JOINED GSA ADMINISTRATOR ROGER JOHNSON IN "ASSEMBLING AN INDEPENDENT COST PANEL TO ADDRESS COURTHOUSE CONSTRUCTION COSTS. IT IS COMPRISED OF REPRESENTATIVES FROM THE PRIVATE SECTOR WHO HAVE CONSTRUCTED AND DESIGNED COURTHOUSES."

JUDGE BLOOMFIELD HAS BEGUN A REVIEW OF THE COURTS DESIGN GUIDE TO ELIMINATE WASTEFUL OR UNNECESSARY SPENDING DRIVEN BY DESIGN SPECIFICATIONS FOR NEW COURTHOUSES.

REFORM IS IN THE AIR. THE TIME FOR CHANGE IS NOW. THE AMERICAN PEOPLE ARE DEMANDING IT. OUR SUBCOMMITTEE HEARS THEIR VOICE LOUD AND CLEAR.

I LOOK FORWARD TO TODAY'S HEARING.

Mr. TRAFICANT. The gentlewoman from the District.

Ms. NORTON. Thank you, very much, Mr. Chairman.

Chairman Traficant is due special thanks from every Member of Congress concerned about rational and efficient spending and cost cutting for his efforts in planning this hearing today on the GAO's report on the Federal judiciary's space needs and long-range planning process.

I welcome all our witnesses here this morning, especially my colleague, Congressman Ron de Lugo, who has come personally to testify.

For sometime this committee has had an increasingly high level of bipartisan concern about the judiciary's continuing request for more space and the concomitant escalating costs of Federal court construction, particularly in relation to GSA's total budget for new Federal construction.

Last year, the subcommittee expressed profound dissatisfaction with the proportion of GSA's budget assigned to court construction and promised to revisit the issue this year, giving the courts time to make improvements.

To make the seriousness of our concern clear, however, we reduced by 10 percent the fiscal year 1994 authorization for court construction because we were asked to allocate over three-quarters of total Federal construction funds for the construction of Federal court buildings. This disproportion represented an increase of more than 100 percent over last year when the allocation for Federal court construction was 37.2 percent of the total Federal construction budget. The courts are devouring GSA's construction budget. Time has run out.

We have discovered, without surprise, that our concerns have been justified. The GAO found that the Administrative Office of the Courts' long-range planning methodology is, quite simply, flawed. Furthermore, the GAO report appears to bear out this subcommittee's belief that increases in court construction funds reflect not, indeed, a need for more courtrooms but for office space for new employees for the courts, or, indeed, for caseload itself.

I have expressed my disagreement with using staffing needs to determine space needs given that with similar space problems other Federal agencies divide office space again and again to accommodate additional staff. However, even if staffing needs are a basis for estimating future space needs, GAO found additional space for the courts is not warranted until caseloads increase to the level where more staff is needed. Thus, it appears that the GAO has found that the very basis for the AOC's continuing requests for more space is entirely deficient, almost fraudulent, if I may say so.

Most disturbing is the GAO finding that if the AOC does not correct its long-range planning process, this subcommittee will find itself in the position of being asked to authorize unnecessary court space in the amount of \$1.1 billion over a 10-year period. This is an extraordinary waste of extremely scarce Federal construction funds. When one considers that agencies in far more dire need of space, such as the Environmental Protection Agency, which is housed in slum office conditions scattered throughout the metropolitan area, and the Transportation Department, have had to line up for appropriations behind the courts, it becomes clear that the

AOC must modify its planning process before additional court space can be approved. In short, a serious fairness issue in the allocation of scarce Federal construction funds has been presented to this subcommittee.

The Federal courts have been the least disciplined branch in its budget requests for new construction and in the results obtained. The courts have been reluctant to prioritize Federal court construction projects. I trust that the results of the GAO report and our hearing today will ensure more measured requests for Federal funding of court projects in the future.

I look forward to hearing from our witnesses. Thank you, Mr. Chairman.

Mr. TRAFICANT. The gentlewoman from Texas, Mrs. Johnson.

Ms. JOHNSON. Thank you, Mr. Chairman. I just have a few brief remarks.

I want to first congratulate Congressman Inhofe and you, Mr. Chairman, for your persistence in pursuing this issue, and I am pleased we are able to revisit this issue this morning and devote more oversight to the problem of government waste.

This GAO report gives us reason to believe that with some simple policy changes the Federal Government could save over \$100 million per year just by cutting back on the space requirements for the Judiciary. It is astounding, if GAO's findings are true, so much money could continue to be wasted. This report is yet another reminder that all of us in government must do a better job of watching expenses.

GAO has made some seemingly appropriate recommendations for changes in the Administrative Office of the Courts' space planning process, but I will listen intently to all the testimony presented this morning to see if I can get a better understanding as to another vantage point.

Thank you, very much.

Mr. TRAFICANT. The Chair recognizes the subcommittee Chair of Water Resources.

Mr. APPLEGATE. Nothing at this moment. Thank you, Mr. Chairman.

Mr. TRAFICANT. Before we get started, I want to say a few things I think that have not been stated here. I think Mr. Duncan from Tennessee has been persistent in trying to develop good policy in dealing with waste in all areas. I commend him and his insistence to continue to pursue these matters.

The gentlelady from the District has been as stalwart in these areas. And I must give credit to everybody that is associated with this, but there is something that must be said, maybe in a different vein.

I think Congress also has to turn the camera on itself. Congress cannot continue to build facilities that maybe the Administrative Office of the Courts would not have normally built, and then these facilities are not used and we talk about waste. There could be powerful politicians that end up developing facilities for economic development purposes and they never get filled, and so it is that I am tempering and moderating my position at this point. I will not be directing, as maybe as should be done at this point, my com-

ments towards those that are now on the end of receiving the flack. I think Congress should be getting some flack, too.

But one thing I think this committee can and shall do is to say no to all these politicians that want all these courthouses built. These courthouses are built and then they sit empty. Then we complain to the Administrative Office of the Courts about the waste. I don't know how, but I will be attempting to construct legislation that will say we are not going to keep expanding these big, overcrowded courthouses in these high-rise, high-cost cities if there are other smaller courthouses which can be used. We want the courts to send full-time judges to those smaller areas so those people don't have to drive, fight traffic and deal with all these problems. We would call that an efficient utilization of space.

And I think that would take a lot of political heat off the Administrative Office of the Courts, who I think is not totally to blame in this, and I take their side because of the politics and hypocrisy here.

So I think before we get started, I want to make this statement to the committee. I support decentralized courthouses. I don't like the fact people have to get up in the morning and drive into these big cities, try to find parking and fight their way into these crowded courthouses. And, in many cases, the judges don't want to go to these smaller cities. Well, we are going to have the courthouses; and we will have the judges.

Now, I don't know if it is within our province to do that, but that is my goal. And while I am here, I will encourage the decentralization of the courts. I know of a couple of places now in southeast Ohio where there is a need, and I would be not supporting putting more money into the bigger cities in southern Ohio and have people trying to fight their way through traffic to get there. But we cannot do that because the judges don't want to go. Well, we are going to have to deal with that, Members.

So let me say this, I want to start off looking at this report in a very honest vein with our Members. Everything is fair game today, but as far as I am concerned, as Chairman, I think that Congress deserves more of the blame than the people that will be taking the flack today. What that means, I don't know, but that is my intent.

Our first witness is the gentleman from the Virgin Islands, the Honorable Mr. Ron de Lugo.

Good morning, Ron.

TESTIMONY OF HON. RON de LUGO, A DELEGATE TO CONGRESS FROM THE VIRGIN ISLANDS

Mr. DE LUGO. Good morning, Mr. Chairman.

Mr. TRAFICANT. Your entire statement will be incorporated into the record.

Mr. DE LUGO. Thank you, very much, Mr. Chairman, ladies and gentlemen of this subcommittee.

Mr. Chairman, I thank you very much for holding these hearings. I appreciate the opportunity to come before your committee to address a problem that has really grown out of hand.

Sitting here, listening to the remarks, particularly of Mr. Duncan of Tennessee and Ms. Norton of the District of Columbia, I have

to agree with everything that you have said, and I say that because I have lived through this.

Seven years ago I came before this committee to ask the committee to authorize the building of a modern Federal building that would house the courts and also the Federal agencies that were on the island of Saint Croix. At that time the courts were housed in the historic government house in Christiansted. They had 8,000 square feet, and, obviously, they needed more space.

Those that wanted to build this courthouse complex came to me and said that one-half of the building would be available, or at least one-half of the building would be available for agencies that I had a particular interest in, such as the Small Business Administration, Social Security, these Federal agencies that are critical to my constituents but are scattered all over the island of Saint Croix, paying outrageous rents in many cases. So that when a constituent wants to get help, he or she has to travel for many miles. I was fully supportive of the expansion for the courts as well.

Well, I testified before the committee. I am a member of the full committee. The committee was very supportive of my request and authorized \$14 million to build. Back in 1987, it was expected the building would be 42,000 square feet, or 42,000 feet of occupiable space, of which the courts would have 16,000 square feet, or twice as much space as they had at that time.

As Representative of the Virgin Islands, I was very pleased at that time because we were going to get a beautiful building and at the same time solve a lot of problems; my constituents would finally be able to get the services they needed from the Federal agencies.

What happened after that point is incredible. I spent hours, weeks, months in a constant struggle. First to get the courthouse placed in an area where the people could get to it without traffic jams and where they would have parking.

I found it very difficult because some of those that I had to oppose in what they were trying to do were personal friends of mine who I had great respect for. But I guess there is something about the total power of being a judge, because they decided they were going to set this courthouse in downtown Christiansted so it was right near the air boat.

Now, the air boat is in a very congested area. I took my committee to St. Croix, and we held hearings. After much back and forth, we finally reached an argument and got the courthouse located right out of town, with plenty of land around it for parking. That is where it has now been built.

Then I got word that the Federal agencies were having trouble getting space in the building. By 1988, the courts had decided that they needed more room. They don't need twice as much space, now they need three times as much space, so the GSA assigned 24,000 square feet of space for the courts. The space that the courts were operating out of was still 8,000 square feet. And the battle began.

I must tell you that GSA is tremendously intimidated by the courts. We authorize and lay out what is supposed to be done. But after that, even though it is clearly spelled out in the record of the hearings, clearly spelled out in the report language, GSA ignores that because they cave in.

One high ranking GSA officer told me that a judge not in the Virgin Islands but here on the mainland, got outraged because he had trouble with his air-conditioning unit and he threatened to have the GSA officer arrested and jailed if he didn't get the matter cleared up right away. Well, with that kind of power thrown around, you can see where GSA does get intimidated.

But as the Chairman said, we in this Congress have a responsibility. I never thought that I would be here before the committee complaining about our support of facilities for the courts. But as Mr. Duncan pointed out in the reports, they are projecting millions of square feet of space in excess of what they really need at a time when our country is faced with this deficit, and when every one of our communities has real problems with the justice system.

I think it is very, indicative that two of the Members that I listened to have such a history with the justice system. In fact, three of the Members do. The Chairman of this committee has a long history of dealing with the justice system as a law enforcement officer; Mr. Duncan as a prosecutor; and Ms. Norton as a recognized and honored expert on constitutional law and of the justice system of this country, and that the concerns would come from you—these are not Members that are hostile to the courts but rather have a history of being friends of the courts, and I have a history of being a friend of the court as well.

I hope I don't get accused of committing a felony or get indicted of anything, or I am in big trouble after today if I find myself before the courts.

Anyway, seriously, even after their space was tripled the courts decided they wanted the whole building. The only person that they backed off on taking space from was the delegate. But they wanted the whole thing.

Well, after a terrible fight I was able to get a couple of smaller agencies in there but that was it. And I want to tell you, the building is built, it was dedicated, everybody is in, and it is a beautiful building on the outside with beautiful architecture. But the opulence on the inside of the chambers is just beyond belief in this day and age.

The square footage of the law library was supposed to be 500 square feet. It ended up being 5,130 square feet. I mean, it looked like a roller skating rink.

And they have an answer for everything. When I challenged them on the law library, they said it was going to be open to the public and the students in the schools would be able to come and use it. It sounds very good but that does not happen in reality.

Now, you may hear from GSA that more Federal offices are available in the building. That is because at the last minute the U.S. Attorney, who I believe should be housed in this building, decided they were not going to move in for their own reasons. They wanted to stay where they were; they had nice space. And, therefore, they make all these decisions based on what is convenient to themselves, not what is important to the community that they are supposed to serve.

So there is all this space. All this space which was designed for the U.S. Attorney, I told you about the law library upstairs, over

5,000 square feet, they had another law library downstairs because the U.S. Attorney certainly couldn't walk up one flight of stairs.

In Saint Thomas, we have been trying to build an annex to the Federal building there. The court came to me. They are overcrowded in Saint Thomas and they need more space. Many years ago I got authorized \$8.5 million for an annex in Saint Thomas, and then, later, I got an additional \$2 million authorized to purchase land so there would be adequate parking.

I don't spend all my time following what the courts are doing when they are building. I am not a contractor. My job here is to take care of legislation. But every time I turned around, suddenly I find they have expanded the space, cut down on the parking, which would cause a real problem in downtown Saint Thomas, without any consultation with this committee or with this Member of Congress.

I pushed them. I said, acquire this land that is around the courthouse; buy it. They didn't buy it. You know who bought it? The local government bought it and it is owned now by the territorial court because the local government moved ahead. They built their court building, beautifully designed, bought the very land that I was urging the Federal Government to buy for parking, and now the Federal Government has no land for parking and now the expansion is evidently not going to take place.

But they have other plans. Now they want to abandon the building in downtown Saint Thomas. Nobody has come before this committee. There has been no authorization or anything, but they want to turn it over to the local government and move out of downtown Saint Thomas into the country and build a magnificent courthouse like they have on Saint Croix. This is part of their long-range facility plan.

Now, let me point something out to this committee. While all of this is going on, the District Court of the Virgin Islands in January of next year is losing jurisdiction over most of the felonies that take place, or any crime that would bring a sentence of 15 years or more. These cases will be handled by the local courts, the territorial courts. So the District Courts' caseload is going to get smaller but, naturally, their space needs are going to be greater.

I want to commend you, Mr. Chairman. You know, this whole thing has been a very sad experience for me. I hold judges in high esteem. I am a Catholic and I am sort of impressed by bishops and cardinals and robes, and judges usually have the same effect on me, but I must say this has been a sorry experience. As much as I admire them, I admire my constituents more, and I have some understanding as to what this country is going through at this time and I think that the courts have simply—they have lost their way.

Thank you.

Mr. TRAFICANT. Can we interpret your testimony as meaning that you are highly upset?

Mr. DE LUGO. Yes, slightly. Slightly upset.

Mr. TRAFICANT. Mr. Duncan?

Mr. DUNCAN. Well, Congressman de Lugo, first of all, I want to commend you for having the courage to come forward and present this testimony to us.

You know, I am also told, I don't know whether you are familiar with it, but the situation in another of our territories, in Puerto Rico, there was a courthouse that was completed in 1978 at the cost of \$22 million and the Federal judges there refused to move in because they didn't feel there was adequate security and also because of a request that two courtrooms be combined into one in a certain portion of the courthouse. And so then an addition had to be built at the cost of another \$9 million and they finally moved in.

But the arrogance that has been exhibited and the total disregard for the taxpayers that has been exhibited throughout this country on many of these projects is just shocking.

And you pointed out one thing. I served seven and a half years as a State trial judge, a circuit court judge in Tennessee. I got along with all the judges. I had a wonderful relationship with all the judges throughout the State and almost all the lawyers. I know that there are many outstanding Federal judges, but there are some who have just totally, completely abused their power in these situations around the country and it is time for us to not only question this but to stop it.

And I appreciate very much the fact that you have come forward and pointed out just one more of many examples of this type of thing that has been going on around the country. I think with this GAO report and with your testimony and with some of the questions that Members are starting to raise around the country, hopefully maybe we can do something for the taxpayers in this situation.

But I thank you very much for your testimony today.

Mr. DE LUGO. Thank you, Judge Duncan.

Mr. TRAFICANT. Gentlewoman from the District.

Ms. NORTON. Thank you, very much, Mr. Chairman.

I want to associate myself with the remarks of the Ranking Member and to thank my good friend and fellow delegate for coming forward so that this committee might have a deeper understanding of what lies beneath some of the figures in the GAO report and so that there can be some sense of why the exasperation of this committee has continued to grow.

I note you have found that judges are not holy and that justice may be flawed, at least when it comes to spending the government's money. Let me just say that the judges have, I think, gotten this separate treatment because of a misreading of the separation of powers. Separation of powers does mean that each and every branch is coordinate. It means that in certain respects the other branch may have nothing to say about it.

For example, Congressman de Lugo, the other branch, the Judiciary, cannot have anything to say about the rules of this House and who shall be empowered to vote in the Committee of the Whole. But, indeed, the judicial branch has nothing to say about the rules of the two branches.

But separation of powers has nothing to do with Federal funding, and under the Constitution of the United States, appropriation bills begin in this House and the courts have got to understand that they have abused their power; that each and every other branch, for years now, has been far more vigilant about how they

spend their funds while the courts seem to have grown more extravagant.

My friend and colleague, the Ranking Member, is correct that those of us in the profession, far from feeling estranged from it or hostile to it, feel a special obligation to retrieve its respect in this regard. I am still a tenured professor of law. I still teach, and I am proud that one of my associates is justice of the Supreme Court, Justice Ginsburg. I insist that I am still a lawyer, even as I am a Member of Congress. It is one of the great and honored professions.

But there are a few questions, Congressman de Lugo, that I would like to ask you simply to get a fuller sense of the facts you have brought before us. First, you say that they want to abandon this courthouse. When was it opened for use?

Mr. DE LUGO. Oh, the courthouse in Saint Thomas?

Ms. NORTON. Yes, the one they want to leave now and—or was that the one in Saint Thomas?

Mr. DE LUGO. Well, they have not said that officially. This was told to me by the chief judge as he presented me with this long-range plan and told me why he was not going to pursue the expansion of the courthouse in Saint Thomas.

Ms. NORTON. That is the one that is overcrowded?

Mr. DE LUGO. That is the one that is overcrowded in downtown Saint Thomas. It was a building that was built sometime, I believe in the 1970s, so it is not an old building.

Ms. NORTON. The building was built in the 1970s?

Mr. DE LUGO. Yes.

Ms. NORTON. And they believe in the 1990s they need a new building?

Mr. DE LUGO. That is what I was told on my visit home a couple months ago.

Ms. NORTON. Is expansion possible where they are located, do you think?

Mr. DE LUGO. Well, I think now it is going—yes, the expansion is possible. The problem is to provide for parking but that can be taken care of. I think the expansion should go ahead as it was originally planned.

Ms. NORTON. Do you think good economical use could be made by other Federal agencies if they were to abandon the building they have instead of expanding?

Mr. DE LUGO. Yes, then we would make it fully a Federal building. What is happening now is that the Federal agencies that are in there are being asked to move out because the court needs more space. It is shared by the court and Federal agencies but more and more of the Federal agencies are moving out.

Ms. NORTON. Now, was the new courthouse planned in a congested area without parking space?

Mr. DE LUGO. On Saint Croix, yes.

Ms. NORTON. On Saint Croix.

Mr. DE LUGO. On Saint Croix, yes, but, finally, I was able to convince them to move to acquire land at the entrance of Christiansted, where there was plenty of parking space and it was accessible. You didn't have to go through traffic jams in downtown traffic and so forth.

Ms. NORTON. The judges, of course, would have had a parking space.

Mr. DE LUGO. They would have had a parking space, and the reason they wanted it located where it was was because they would—in those days they traveled back and forth between Saint Thomas and Saint Croix on the air boat. This was an operation, an air boat operation run by Charlie Blair, who was the husband of actress Maureen O'Hara, and it has since gone out of business. But this was going to be convenient because, they and the lawyers would land at the air boat facilities in downtown Christiansted and walk about 200 yards to the courthouse. So it was very convenient for the judges and those who were practicing law, but it was not convenient for the public and it was going to cause great problems for downtown Christiansted.

So finally we were able to get them to move out of Christiansted and where they are located now is an excellent location.

Ms. NORTON. I want to ask you something about the intervention of individual judges. We had a situation in the District of Columbia recently where in a city, which has almost no vacant land left, which desperately affects tax receipts and its economic possibilities, there was a plan to build a Federal prison in the middle of town on prime real estate because of the convenience to the Federal courts and that they could transport the prisoners more quickly.

Mr. DE LUGO. Sure.

Ms. NORTON. Maybe in 10 minutes rather than 20 minutes. We were able, really with a lot of work, to kill that notion, and I think that we might not have been able to kill the prison if it had not been for deficit cutting, budget cutting.

But I have detected this from your testimony and from my own experience—has it been your experience that individual judges have a great deal of latitude in the process of planning a courthouse?

Mr. DE LUGO. Oh yes. Very much.

Ms. NORTON. And directly intervene into the planning?

Mr. DE LUGO. Oh yes. The chief judge, whoever it happens to be, or the senior judges have great influence over GSA, and, really, GSA finds it difficult to stand up to them.

Ms. NORTON. This concerns me, because GSA is put in a very difficult position all of the time with Federal agencies, and I think does a pretty good job generally. But when an agency head or a commission head has her eye set on space of one kind or another, GSA tries to accommodate the agency. After all, the agency is a client. And on the other hand, it has the stringencies imposed by committees such as our own.

One thing is clear, that we should never leave the judges in charge of this chicken coop. But there is a question as to who should, in fact, intervene between ourselves and the judges. Is there a way to insulate, in your judgment, the GSA from this kind of, in some instances, abuse of power?

Are more regulations needed? Is more law needed to clarify the role of the oversight agency here as its role is in fact accepted by other Federal entities?

Mr. DE LUGO. Well, let me say that this has been quite an experience for me. I am not without sympathy for GSA because many,

many times while this was going on I felt very, very sorry for them because of the pressure they were under. But I think that the congressional committees, both the authorizing committee and the appropriating committee, I know in the case of the Saint Croix courthouse, the hearings that were held here and the legislation that was passed and the report language was very specific, gave very clear directions to GSA as to what the Congress was authorizing and what Congress wanted done, but what has happened in recent years is that it is not followed; that because we become busy with other matters here on Capitol Hill and are not able to follow up on all this, GSA, I guess, feels more pressure from the judges than they do from the Congress.

Anyway, what I found was that even though GSA's directive was clearly spelled out—this was a shock to me because I was, I had not been in Congress that long, as long as I have been now—and that even though it was clearly spelled out by the authorizing committee, GSA would still ignore it and would go with those things that the judges wanted.

I think there has to be tougher oversight. That is why I commend Chairman Traficant for what he is doing. I also think the appropriating committees have to become involved and there has to be a coordination between the authorizing and appropriating committees. Congress just has to take back its authority. I think we let it go, to a large extent.

Ms. NORTON. So we have a situation here where the GSA found it difficult from their level to deal with it, and you found it, as a Member of Congress, even difficult—

Mr. DE LUGO. That is right.

Ms. NORTON [continuing]. To get the requisite attention.

I want to thank you again very much, Mr. de Lugo.

Mr. DE LUGO. Thank you.

Mr. TRAFICANT. Chairman Applegate?

Mr. APPLEGATE. Thank you, Mr. Chairman.

Let me say there is nobody that I respect any more highly than Ron de Lugo. He is a very thoughtful Representative of his people and we have had discussions about some of the problems he has had down in the Virgin Islands. And now he tells somewhat of a horror story, which we on this committee should listen to and try to learn from, and I believe that you are right, it seems to me that this committee, and the Congress itself, should reassume its authority over these things.

I know when you are talking about the Federal judges that there are those that I have known in years past who have assumed dictatorial authority and become overbearing and pious as soon as they put that robe on and take their oath of office.

I have met some that are extremely capable and tremendous people, Judge Duncan in Columbus, in the southern district of Ohio, who is, I guess, one of those rare individuals. He left the bench and he went into the private sector, but he sat there and served with others who were considered as hanging judges.

And I know the public many times likes to see a tough justice system and hanging judges, but too many times they are considered hanging judges for the wrong reasons.

And I agree with my good friend and the Chairman of the committee, Chairman Traficant, and he is right on when he talks about the rural areas and the disregard that they have. There is no priorities placed in some of these small areas, and I happen to represent a very small area, and he is talking about southeastern Ohio and he is talking about my area. He is talking about Ted Strickland's area in southern Ohio. And if you don't have anything there, if you have no facilities for people to go to—and you do have problems and they have to travel 150, 160, 170 miles to get to Columbus, Ohio, in order to go to the courts.

Now, I approached the GSA about buying a building in my district not too long ago and I said it is \$5 million, and I said I would like for you to buy it, we can consolidate, we can bring a lot of Federal offices into it. And let me point out in my district there are no Federal buildings. There are absolutely no Federal buildings in the 18th District of Ohio, except the Post Office. That is all there is. So I said we need something there so we can bring these in and we can save some money. I said you can buy it for \$2 million or a little more.

It finally sold, after they rejected it, saying we cannot spend that money, it sold for \$600,000. A beautiful, modern, eight story building in downtown Steubenville. I mean, that is what you call shortsightedness.

We had a court. We had a court in Steubenville. Judge Carl Wyman. Fortunately, he was from Steubenville and he lived there and so he held court there on occasion, and that was the only reason. That was the first and the last time we saw of anybody in a robe, except for our local judges. But it is too far away and we need, and I think the rural areas need to have some kind of focal point where the people can have the option of not having to make the big trips.

So I just want to tell you how much I appreciate your testimony, coming before the committee, and the words that have been spoken by my colleagues who sit on the committee, because I think it is very important and I think there needs to be some changes made, and I think with Chairman Traficant, he is a strong committee Chairman, probably as strong as we have in Congress, and I think this committee under his leadership is going to assume or reassume that power and that authority which we ought to have.

Thank you very much.

Mr. DE LUGO. Thank you very much, Congressman Applegate, and let me just comment on something you said about Chairman Traficant leading this committee to reassume the authority that it should have.

I will give you an example. You are building this magnificent new Federal building on Saint Croix. The courts have now taken over all the space. Their space has gone from one-third to 100 percent of the space, except for my office. Now what are they telling the Federal agencies, the SBA and the others? They are telling them, no, no, there is no room for you in this building, you are going to go in the annex.

What annex? This committee and this Congress has not authorized any annex for Saint Croix. There is not even a request for an annex. But they have decided that there will be an annex built and

they assume, they take for granted that we are going to rubber stamp it. That is why we have this type of problem.

So I am glad to see you there as Chairman, Brother Traficant, and I don't think they will take you for granted anymore. Thank you.

Mr. TRAFICANT. I would just like to say this, as far as your own specific concerns—because I think you came in here symbolically, very courageously, to talk about your particular problem, but it is simply a microcosm of what you feel is a major problem that we should be addressing, and our goals are not much to micromanage any particular area but to apply those experiences from Members as relates to their own areas and put them across our country.

Let me say this, Mr. de Lugo, there will be no authorization in Saint Croix while I am Chairman unless you are for it. I mean, that is the way it is.

Mr. DE LUGO. Thank you very much.

Mr. TRAFICANT. I want to say one other thing that Chairman Applegate talked about. I am hoping that we can put into law a utilization program for the courts. And I am not foreseeing any more expansion in these high-rise, high expensive cities when we could develop these smaller, very effective, cost-efficient courthouses and Federal buildings, more isolated, like Chairman Applegate talked about. Cost effective.

And before there is any more money—it may be the only way to get these judges to do it, because we cannot tell judges where to go sit. But I can say this. There will be no more money while I am Chairman, unless this committee overrules me, for any more of these expensive facilities to expand these already busting at the seams courthouses while we could take a little bit of justice to the people.

We cannot be accommodating judges, we cannot be accommodating big city mayors, we have to accommodate the people, and I think that is the program. And I think you have a professor of law here, you have a former judge here, you have a sheriff here. I never met a judge, to tell you the truth, that didn't try to put me in jail, so I am ready. I am ready to do it, and with the help of the committee I think we can do that.

I want to thank you. It is very courageous. And I will say this to you, stay involved with us and our staff. There will be no changes in the Virgin Islands unless we hear from you and the people of the Virgin Islands.

Mr. DE LUGO. Thank you very much, Mr. Chairman. You know all of us like to get Federal buildings in our districts. It means jobs. So you know I didn't come to this position easily, but I must say that I am very reassured with you in that chair. Thank you very much.

Mr. TRAFICANT. Well, we appreciate it. Thank you for coming in, Mr. de Lugo. Our next witness is the Associate Director for Federal Management Issues, General Government Division, General Accounting Office, Mr. Charles I. Patton, Jr., and he will be accompanied by Miss Frances P. Clark, Assistant Director; Mr. Scott Derrick, Evaluator-In-Charge; and Miss Bonnie Steller, Sr. Statistician, Technical and Methodological Assistance. And I will open it

up to the Associate Director, Mr. Patton, and you can proceed as you wish.

I would ask, if you could, to try to summarize your statements. Your statements will be included in the record in their entirety, and we would appreciate that so we could interact with you more.

TESTIMONY OF CHARLES I. PATTON, JR., ASSOCIATE DIRECTOR, FEDERAL MANAGEMENT ISSUES, GENERAL GOVERNMENT DIVISION, UNITED STATES GENERAL ACCOUNTING OFFICE; ACCOMPANIED BY FRANCES P. CLARK, ASSISTANT DIRECTOR, FEDERAL MANAGEMENT ISSUES; SCOTT DERRICK, EVALUATOR-IN-CHARGE, FEDERAL MANAGEMENT ISSUES; BONNIE STELLER, SENIOR STATISTICIAN, TECHNICAL/METHODOLOGICAL ASSISTANCE

Mr. PATTON. Mr. Chairman and members of the subcommittee, we welcome this opportunity to discuss our recently released report that focuses on the judiciary's process for projecting its future space needs. With me today, to my right, is Fran Clark, who is the assistant director, and the responsibility was primarily with her for this assignment; to my left, our senior statistician, Bonnie Steller; to her left, the evaluator-in-charge, Scott Derrick. So we, essentially, have the team that conducted this assignment here with us today.

As you know, this report was prepared in response to Representative Inhofe who requested that we evaluate the reasonableness of the judiciary's process in projecting long-range space needs. The judiciary was one of the first government organizations to develop a mechanism for anticipating future space needs. GSA uses the 10-year space projections provided by the judiciary as the basis for requests from Congress for new construction and expansion of court space in existing facilities.

To evaluate the judiciary's process and to determine whether the results produced were reasonable indicators of future needs, we determined whether the methods used by the judiciary were applied consistently from district to district. We assessed the baselines to which the judiciary added future space projections and evaluated the judiciary's approach to projecting long-term space needs. The basic assumption in the planning process was that caseload should determine staff needs, which, in effect, should define space.

To determine the estimated total impact of the judiciary's planning process, we projected the judiciary's findings for the completed districts to all 94 districts. Our report shows that there were problems in each of the three areas we examined. I would like to briefly discuss the findings in each of these areas.

First, the judiciary's method for projecting space needs has treated districts inconsistently. The process began in 1989, and as of September 1992, which was the completion of our field work, the judiciary had projected space needs for 60 of the 94 districts. Since the process began, the judiciary has made a number of changes in the way space is allocated but has not routinely revised the completed plans to reflect the changes. However, we understand that judiciary has begun now to update the completed plans and to eliminate these inconsistencies.

Also, the period used to project the caseloads was not the same for all districts. This problem should be mitigated, however, when

the judiciary reduces its planning cycle from five years to two years, as we understand it will be doing next year.

Additionally, when the judiciary developed the ratio of personnel to caseload to determine future staffing needs, it gave equal weight to all cases. These ratios ignored differences among district caseloads, such as complexity and length of trials, that could directly affect space needs.

Second, the judiciary used the districts' current amount of space plus any unmet space needs for its authorized staffing levels to calculate the baseline to which future needs would be added. Consequently, when a district occupied more space or had more staff authorized than its caseload warranted, projections of future space needs were overstated.

To calculate the effect of this practice on projections, we tested two alternative methods for determining the baselines. Both alternatives indicated the baselines for about one-third of the districts were understated while for the remaining two-thirds of the baselines were overstated.

Finally, the long-range planning process used by the judiciary has not produced reliable estimates of future space needs. The judiciary averaged the results of different regression analyses to develop its projections of future caseload. As a consequence, the accuracy of these projections cannot be measured statistically. In addition, the high level of subjectivity in the process made it likely that if the process were repeated for the same district, the final estimate would be different.

To assess the overall accuracy of the judiciary's process, we developed 10-year projections of space needs for the judiciary using a standard acceptable statistical method. Our analysis indicated that judiciary's 10-year projections of court space needs were higher than our estimate in 76 districts and were lower in 18 districts. Overall, the judiciary's estimates were about 16 percent higher than our estimates.

Using our estimate of \$31 per square foot, which reflected the judiciary's average cost for all court space for the period 1988 to 1992, the judiciary's projections could represent an overstatement of \$112 million per year, or \$1.1 billion for a 10-year planning period.

In summary, Mr. Chairman, the judiciary's long-range planning process has problems that impair the accuracy of its estimates. We recognize it is a difficult process to project future space needs with precision, however, the judiciary could obtain more reliable estimates of future space needs by modifying its process to treat all districts consistently, use baselines to reflect current caseloads, and use a statistically acceptable method to project future caseloads. As a result, the Congress could have a better basis for decision-making.

This concludes my statement. My colleagues and I will be happy to answer any questions that you might have.

Mr. TRAFICANT. I thank you, Mr. Patton.

The gentlewoman from the District.

Ms. NORTON. Thank you, Mr. Chairman.

Mr. Patton, I understand that the judiciary had the National Center for State Courts evaluate its projection methodology and

that the National Center concluded that, with minor exceptions, the judiciary's process could be used as a model for State courts. This would appear to contradict the conclusions that GAO has reached. Can you explain the discrepancy?

Mr. PATTON. We most certainly can. Actually, as we have indicated in our report, we believe, for the most part, the National Center's analysis and recommendations support our recommendations. And, in fact, I have a handout, which is a side-by-side analysis of both our recommendation and the center's recommendations. I think you will see we have done a side-by-side analysis, and the key areas I have discussed are also covered in the center's recommendations.

In the very first one we deal with consistent treatment. The National Center for State Courts, their recommendation, they say the same time frame should be used for all districts.

We deal with case complexity, which I discussed. They are saying that the growth model should be viewed to make sure they reflect significant differences among groups. That is the case complexity issue.

Moving on down, the standard statistical technique I referred to, the center says separate forecasting methods instead of averaging the separate forecasting methods. That is the key area in the report where they average and we talk about the statistical validity.

The subjectivity issue is also mentioned in the report, and of course the State courts indicate you should only modify the plans when there is a demonstrated need.

And, finally, the time span covered for projections. They, the National Center for State Courts, says that that should be a shorter time frame.

These are pretty consistent with what we have found. I would say if they were to implement those recommendations and ours, and to address some of the other areas that we mentioned that they don't mention, and that is the use of—in considering establishing baselines and using other estimating statistical methodologies that would provide a little more precision—and we discuss those methodologies on page 53—that they would, in fact, address most of the problems that we have discussed in our report.

Ms. NORTON. Thank you. Thank you for that explanation.

Could you, as well, provide the subcommittee with a brief explanation of how the judiciary projects its space needs and compare it with the process you used to evaluate the judiciary's process?

Mr. PATTON. Yes, we certainly could. I think I will have our assistant director, who is prepared with a handout also that—

Ms. CLARK. We have another handout as well.

Mr. PATTON. This is a fairly complex process, so we wanted to have something available as well as two examples that she will explain. Fran.

Ms. CLARK. The judiciary's process for projecting long-range space needs is based on the key assumption that caseload determines staffing, which in turn determines the space needs for future space in the courts, and we did not challenge that assumption.

To explain the judiciary process, I will run you through it very briefly.

To determine caseload, the judiciary first runs several regression models for each type of caseload. There are four types of caseload: bankruptcy, civil, criminal and persons under supervision. They average the results of those regression analyses and then they project those into the future time periods doing a projection for 5, 10, 20 and 30 year periods. Then they multiply the results from those by a multiplier from 1 to 1.8.

Now, they were using the multiplier during the time of our review. We understand they have since changed that and no longer use it. But once they have their caseload projections for the future, they then translate them into staffing requirements. And to do that—

Ms. NORTON. Do you have any indication of what was the rationale for the multiplier when they were using it?

Ms. CLARK. It was a judgmental call of whether the estimates that they got looked like what they should or what they were expecting them to look like. If they didn't, then they would use a multiplier—they would choose a multiplier and then multiply the results by that answer.

To determine staffing, they grouped the various districts into one of four different groups which they called growth models, determines staff to caseload ratios, and then applied these ratios to the projections. Once they had staffing levels for the future determined, they then translated them into space needs.

To do that they used the design guide for the U.S. courts, which is a separate book that determines how much space an individual or function gets for each function that the court performs. So, then, they have the future projections for all of the space needs district by district. To that they add the existing baseline to get a total of space needs, current and future, and they do their future projections for 5, 10, 20 and 30 year periods.

To compare what they did with what our process and we did, our process, just to get a feel for how significant the discrepancies or the weaknesses we found were in the system, to determine caseload, we picked what we thought were the most appropriate regression models for each type of caseload, depending on the characteristics of that caseload, and ran projections for a 5-year and a 10-year period.

We did not average the regression, the results of the regressions. We just picked one. And we did not use a multiplier. We used the same ratios for caseload to staffing that the courts did. We did not change that. And we got our staffing that way. And then we also used the same design guide they did to translate the staffing needs into space projections.

The baseline we added it to was different than the one the judiciary used. We used the same ratio they used of caseload to staffing to determine what an appropriate baseline should be, and then once that baseline was determined, added it to the future space needs.

So that is essentially the difference between the two processes. Now, to give you an example of how that translates out, what we have done is we have provided two specific districts. The first district is a large metropolitan growing district, and as you can see our analysis on the baseline, we indicate that the district actually

has a need for greater space than the judiciary system indicates. But as you progress to the 5-year and 10-year periods, the space needs are actually less.

On the second example, which is kind of a steady growth district in all three cases, baseline and at the 5-year and 10-year projection, our estimates are considerably under the estimates that the judiciary projected.

So for each district that we did, we had somewhat different results. In some cases our analysis indicated that the judiciary was not asking for enough space, in others it indicated that we thought they were asking for too much space. On balance, when you totaled everything up nationwide, they were asking for too much space over a 10-year period.

Ms. NORTON. The judiciary has stated that you were incorrect in applying their personnel to caseload to determine current space needs. They have stated that the courts are staffed with 3,065 fewer positions nationwide than are justified under their work measurement criteria. What is your reaction to these statements?

Mr. PATTON. We used what they used in the process. Our objective was to assess their planning process, so we looked at staffing relative to their planning process, and the personnel to caseload criteria, which is actually on page, I think 20 of our report, is their criteria that they used in the planning process.

So we were not in any way questioning their work measurement process, which we understand is used in the budget process. If in fact that process is better, we would say that maybe they should consider using it in their long-range space planning process. But as I say, we used their own criteria, which was not the same as the work measurement criteria. This was something that was brought up to us at the close of the job.

Ms. NORTON. I understand that the judiciary believes that at an aggregate level the total amount of space that has been overestimated or underestimated is of no consequence and has no relevance and, therefore, GAO was wrong to compare nationwide projections of space needs. Do you agree?

Mr. PATTON. No, we do not agree. The projections were done, as I indicated, to put some type of perspective on the entire process and to show when you use a valid statistical measure what the results could be. I think without a total perspective you cannot get an idea of what an over or underestimate would be. It is the reason for the projection.

Ms. CLARK. And another reason, too, is that we found a number of weaknesses in the process but we did not have a good feel for how significant those weaknesses were. And it was only by aggregating the numbers that you could get a sense of whether or not the weaknesses were significant enough to warrant revision.

Mr. TRAFICANT. Mr. Duncan.

Mr. DUNCAN. Thank you, Mr. Chairman, and I will be very brief.

Mr. Patton, I do, first of all, want to commend you and your staff for this very detailed and I think very fine report that you have prepared. I might point out that while I have asked questions similar to what are in this report for several years, that I am not the one who requested this report and, as I said earlier, many, many

other Members are starting to speak out on this because there is a growing concern nationwide about this problem.

I know Congressman Pomeroy, the new Congressman from North Dakota, offered an amendment on the Floor earlier this year in regard to what he felt were excessive space requests.

But let me ask you this. You say in this report at one point, and I mentioned it earlier, that the space needs have been overstated by at least about three million square feet, and that that will result in a waste of \$1.1 billion over the next 10 years. How did you arrive at that calculation; and do you think that that is—is that an exaggeration or is that a conservative statement?

Mr. PATTON. That is a conservative statement. I think I will refer to our senior statistician on that projection. She will give you exactly how we did that.

Ms. STELLER. In order to derive those figures, as Ms. Clark just said, we basically applied the judiciary's ratios of personnel to case-loads, extending it out only to 10 years. We then multiplied that figure by the cost that we had used, of \$31 per square foot, using the overestimates and the underestimates. If these were balanced, if everything was in balance, this is where our estimate would be.

Ms. CLARK. Were you also concerned about the \$31 per square foot?

Mr. DUNCAN. Yes, that was going to be my next question.

Ms. CLARK. I am sorry, I thought that—

Mr. DUNCAN. No, go ahead.

Ms. CLARK. The \$31 per square foot was the best estimate we could get from GSA, to whom the courts pay regular rent, of what their costs had been for the last several years. And we wanted it to fairly represent a combination of new and old space, so we deliberately did not use a new construction cost. Because if we had, it would have been significantly higher and we believed that in the future it wouldn't all be new space, it would be a combination of both.

If we had used a new construction figure, it would have been something in the order—I think the latest figure the GSA is using is \$180 a square foot for gross square feet in the Washington, DC, area, which would be adjusted up or down depending on which geographical region the building was in. And on an occupiable square footage basis, that could translate into as high as \$280 a square foot, and we didn't think that would be a fair estimate to use. So that is why we used the \$31 a square foot.

Mr. DUNCAN. But if you had, then, the estimates on the cost would have been six to nine times higher?

Ms. CLARK. That is correct. But as we said, it was not going to be all new construction, we didn't believe.

Mr. DUNCAN. Well, from your review of this, do you feel that there are enough checks and balances in the system? You know, it just seems like in the past not enough questions have been asked about some of these projects. Is that a fair statement?

Mr. PATTON. That appears to be the case. I would certainly say that there needs to be an independent check in the system. If you were going to put these kinds of dollars on the balance sheet in the private sector, certainly you would want an independent audit. That part of the process does not really seem to be there.

And, also, I think you would want to eliminate the subjectivity to the extent that you could from any process like this so you could have the most credibility possible and feel more comfortable with the figures.

So that other element—this is just a basic management control, if you will, in the process, where you need that independent check and validation and verification. It needs to be there. From what we have seen, it is not.

Mr. DUNCAN. I am sure that somebody may raise the question, though, that you all operated from a different baseline or starting point than the Administrative Office of the Courts. Would you explain that for us? Why that was? What are the differences?

Ms. CLARK. What we were trying to do in the process was to determine how accurate the baseline was, because if the baseline itself is not accurate, then that error gets translated out over the years. And to do that, we used two alternative approaches.

The courts use, for their baseline, the space that is currently occupied plus the unmet needs for the authorized staff. So we compared that to what using their caseload to personnel ratios would indicate they would need in terms of space currently, and we also compared it against what their current staff, if you just translated what the current staff needed in terms of space, how much space would be needed at the current time.

And in both instances, while we found approximately a third of the districts did not have sufficient space, we found the remaining two-thirds had actually more space than they needed.

So that is how we were testing the baseline to see if it was solvent.

Now, subsequent to our review, in the last week or so, the courts have mentioned that what we should have done is use their workload measures that take case complexity more into account than the caseload to staffing ratios they used for the long-range projections, and use that to establish the baseline. We did not do that. The reason we did not do that was we wanted to use the same set of criteria that the courts were using in their long-range projection process with baseline to see if, for consistency, to see if the baseline was, in fact, as accurate as it could be.

Mr. DUNCAN. Well, I have several other questions but I am going to just reserve those questions because we have other witnesses, but I do want to say once again I appreciate the time and effort and hard work that all of you have put into this.

You know, nobody in this government is so big that nobody can do anything about it by himself or herself, and so if it was just one or two of us who were concerned about this or raising questions about it, nothing would be done. But, hopefully, because of efforts like you have put forth in this report, and because of the questions that are now being raised by the media and by many Members in both the House and Senate, hopefully some of these projects will be looked at more closely in the future.

I don't think any of us, and I am certainly not saying that we do not need any more new courthouses or that we will not need additional courthouse space in the future, but I am saying that there have been some lavish excesses put into some of these courthouses in the past and we have apparently just gone ridiculously over-

board, and you cannot just give someone everything that they want.

You could not give me everything I wanted and you cannot do that for anybody, but, apparently, we have been doing that for some of these district judges in the past. And I will say once again, I think most Federal judges across the country are good, dedicated, patriotic people, but, apparently, there are quite a few who have just done or requested things that I know are not criminal, but they should be because the taxpayers have really been ripped off in many areas around the country.

And it is very sad to think that we take money from poor and hard working individuals who can barely afford to support their families so that we can build, as I said earlier, some of these Taj Mahal palaces, or as one of the newspapers said, some of these monuments to these Federal judges who leave after just a few years time, and we forget that it hurts the families and hurts the individuals in this country when we do things like that.

I mean, you have people out here who can barely afford to put food on their table, and then we come here and do things that are just ridiculously excessive. And I certainly appreciate the report you have prepared and, hopefully, this will be the start of a reversal of some of that in the future.

Thank you very, very much.

Mr. PATTON. Thank you.

Mr. TRAFICANT. Mrs. Norton.

Ms. NORTON. Thank you, Mr. Chairman. In a real sense, Mr. Chairman, we have, indeed, all been pulled into the process. A Member of Congress is approached by I don't know who and Members come to testify before this committee for the courthouse. I certainly would come and testify if I were approached and given an analysis or a request.

What this shows, however, is that what the Chairman is doing here has not been done before; that is to say, to insist that there be some hard-nosed intermediary that comes here to mediate between us and the courts.

I am not sure if the OMB has any role to play here. I can tell you one thing, the OMB plays a role to a fare-thee-well with agencies on every other thing, including things they have no reason to be involved in. Reinventing government. One of the things government needs to do, it seems to me, is take the OMB out of the part of its role that solidifies and makes inflexible the way in which agencies operate. But it looks as though the OMB or some similar agency of government may have a role to play with the courts.

We often hear—indeed you have heard Mr. de Lugo testify before you—that what drives judicial space is the need for courtrooms, or the perceived need for courtrooms. Did your analysis confirm that the need for or the perceived need for additional courtrooms is what is key here?

Mr. PATTON. Not really. That was an issue that came up early on, but we found about 19 percent of the space was for courts and 36 percent accounted for the general office space, 20 percent for hallways, and about 25 percent for the jury rooms. So that did not bear out.

Ms. NORTON. Twenty percent for internal hallways?

Are there any other internal reviews, GAO reviews of the judiciary going on?

Mr. PATTON. Yes. Not of the space planning. We received a request from Representative Brooks and Senator Levin, and this really was to evaluate the administrative services that AOC is providing to the Federal courts. This job is just getting started, and we would be happy to have our people talk with you on that.

Ms. NORTON. How does the judiciary prioritize its space needs?

Mr. PATTON. It is our understanding they don't prioritize their space needs.

Ms. NORTON. They cannot come in and ask for money for everybody, or do they do that? They simply take everybody's request and come forward with it?

Ms. CLARK. One of their planning assumptions in the long-range planning system is that all districts will be treated equally and they will not make trade-offs between districts. It is our understanding they think that is the role GSA is to play when they present their long-term space planning needs to GSA. GSA is to make those trade-offs.

Ms. NORTON. Does GSA make those trade-offs?

Ms. CLARK. That, I don't know. My understanding from GSA, as recently as a couple of weeks ago in a hearing in the Senate, is that they don't question the needs of the courts. They accept those as given and then proceed from there.

Ms. NORTON. Mr. Patton, when you began your testimony, you said that the judiciary was one of the first organizations to develop a way to assess future space needs. Doesn't the GSA do that? Don't agencies do that? What do you mean when you say the judiciary was one of the first organizations?

Mr. PATTON. Well, they are. Most agencies, from my understanding, really do not project particularly over that period of time.

Ms. NORTON. The courts should be given some credit.

Mr. PATTON. Absolutely.

Ms. CLARK. Absolutely.

Mr. PATTON. This is a difficult process. I mentioned that right up front. And we recognize that. Also, throughout the process, and even at this point, we are willing to work with them as they consider alternative methodologies. We are certainly available. Our whole purpose was to suggest ways that the process could be improved.

Ms. NORTON. Have the courts showed an interest in working with you to improve their methodology?

Mr. PATTON. Well, we have been working with them. In terms of recent interest, it is primarily just in responding, I guess, to the product. So maybe now that we are past that point, we can develop that relationship.

Ms. NORTON. Thank you very much, Mr. Patton.

Mr. PATTON. Thank you.

Mr. TRAFICANT. I am not going to ask any questions for the sake of expedience, except to say that we will be submitting to you a number of specific questions that I want answered in total.

I do want you to address this one question. I want to know if you addressed the political interference that has in fact maybe hampered the Administrative Office of the Courts or the GSA in con-

ducting their business. In other words, I am pretty much led to believe, from what I have seen, that you have done a good job. That is refreshing. GAO seems to be a refreshing element of our government.

Mr. PATTON. Thank you, sir.

Mr. TRAFICANT. But we may be putting a focus on some people that really have been caught in a political bind and they are taking a lot of flack for it. I have had some, with my limited experience, relationships with GSA and the Administrative Office of the Courts, I see competence there, and I see a want to do what is right. But many times it is not their decision and they just must follow through on some political element that exists.

I want to know if you have looked at that. I think that is absolutely important for us.

So there will be a number of specific questions coming from this committee, and I would like them to be answered in total and I would like to evaluate them. If necessary, if I have any concerns, we will call you back.

We do plan to offer a legislative remedy. The problem is we have too many people going to too many places, and if somebody wants some things, they go to where they think they can find some success. And the bottom line is you have a constitutional requirement. Congress works by committees. One thing that will be important, as far as I am concerned, is that there shall be no courthouse development in any district unless the Member is on record with the courts and the Member brings that resolution to the Congress. Anybody that tries to get around the Member, while I am Chairman, will have a rough time building a courthouse. I think that is about time that is done.

I want to thank you. I want to commend you, and I think that your work was detailed and professional. So thank you very much.

Mr. PATTON. Thank you, sir.

[The information follows:]

GAO RESPONSES TO QUESTION FROM JAMES A. TRAFICANT, CHAIRMAN, SUBCOMMITTEE ON PUBLIC BUILDINGS AND GROUNDS HOUSE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

Question. On page four of the subject report it states: "GAO found that AOC's [Administrative Office of the U.S. Courts] process for projecting long-range space needs did not produce results that were sufficiently reliable to form the basis for congressional authorization and funding approval of new construction and renovation projects for court space." Why is the process unreliable? What can be done to make the system more reliable?

GAO Response. Our report identified three key problems that have impaired the accuracy and reliability of AOC's projections:

(1) AOC had not treated all judicial districts consistently. One reason for this was that it did not routinely revise district plans that were completed earlier to reflect changes made to critical factors, such as the space allocation per individual staff. Also, the procedure used to convert caseload estimates to staffing requirements did not reflect differences among districts that affect space needs. (See pp. 28-35 of our report.)

(2) Based on AOC's assumptions regarding the relationship between caseloads and staff needs, many districts' baselines to which future space needs are added did not accurately reflect their current space needs. AOC used as the baseline for a district the amount of space it occupied plus any deficit identified by the local representatives. Because the baselines forms the starting point for all future estimates, it is critical that reliable results be obtained at this stage of the process. (See pp. 36-44.)

(3) AOC's process did not provide reliable estimates of future space needs because the methodology used to project caseloads was not statistically acceptable. In addition, because of the amount of subjectivity in the process, it is likely that if the process were repeated for a district, even without any change in caseloads, the estimate of space needs would be different. Because of these problems, some districts will receive a higher projection of future needs than is warranted, while others will receive a lower projection than is warranted. (See pp. 45-56.)

Our report recommended that AOC improve the methodology for estimating future space needs by revising the long-range planning process to: treat all districts consistently in terms of the application of the assumptions regarding the relationships between caseloads, staff, and space (see p. 34); establish a baseline for each district that reflects its current caseload (see p. 42); and increase the reliability of the results by using an acceptable statistical procedure for projecting future space needs and by reducing the level of subjectivity in the process (see p. 54).

Question. Please explain regression analysis. Why is it used in this instance? Are there other methodologies available which are more reliable predictors?

GAO Response. Regression analysis is a statistical procedure for estimating the value of one variable (Y) using information about an associated variable (X). The use of regression analysis assumes that the two variables are somehow related and that the same degree of relationship will continue into the future as has occurred in the past. There are a number of different regression models in common use such as linear, exponential, quadratic, and log transformations. The choice of a particular regression model depends upon the relationship between the variables. It is a commonly used statistical practice to use time as the first variable from which to project the other variable (such as caseloads). Because of the difficulty associated with the selection of a model that can produce accurate future projections, it is common statistical practice to test more than one model before selecting one for use. (See p. 46.)

AOC used regression analysis for estimating the initial caseload projections in the planning process. AOC used linear and quadratic regression equations because it believed these methods were appropriate for projecting the relevant judicial caseloads. (See pp. 46-49.)

Because more sophisticated statistical procedures could yield more reliable results, we believe AOC should further explore other potential methodologies for forecasting caseloads before selecting a procedure for use during its ongoing process. Procedures using additional predictors, such as multivariate non-linear regression analysis, could yield results with narrower confidence intervals. Other statistical techniques, such as adaptive filtering or ARMA, auto-regressive moving averages, are well-suited to making estimates when the pattern is not linear. (See p. 53).

Question. What specific problems did GAO identify with the AOC's regression analysis? What is the problem with averages "averages"?

GAO Response. The use of different regression models is an appropriate method for determining trends in historic data. The single model is selected that meets the statistical tests for "best fit" to the data and is used to make the projections of future events. This method avoids the common error of assuming that the historic trend is always linear. However, this is not the way AOC used the different models. AOC averaged the results from different models to derive the final caseload projections. The averaging of regression results violates acceptable statistical practice and prevents the calculation of confidence intervals, which allow for the computation of the accuracy associated with the estimates. (See p. 46.)

Question. Please explain the process by which you interacted with the AOC? Who participated in the project? How are comments, requests for changes, deletions and additions handled?

GAO Response. To evaluate the methodology used by the Judiciary to project long-range space needs, we interviewed officials from AOC's Space and Facilities Division in Washington, D.C., and the consultant hired by AOC to assist in implementing the long-range planning process. These officials provided detailed information on the operation of the process. We accompanied the AOC team to two on-site sessions with district courts to learn more about the process. We also reviewed the planning files for those districts where AOC had completed the process. AOC cooperated fully with our review. (See pp. 25-27.)

Appendix IV of our report lists the representatives from our General Government Division who contributed to the report. The principal contributors were Frances P. Clark, Assistant Director, Federal Management Issues; K. Scott Derrick, Evaluator-in-Charge, Federal Management Issues; and Bonnie J. Steller, Senior Statistician, Design Methodology Technical Assistance Group.

On February 19, 1993, we met to discuss our initial findings with representatives from AOC, from the Judicial Conference, and from the consultants hired by AOC to evaluate our report. We incorporated many of their oral comments and clarifica-

tions into our draft report. On May 26, 1993, we provided a copy of our draft report to AOC for written comments and received AOC's comments on June 24. When we agreed that a change proposed by AOC improved the clarity or accuracy of the draft report, we revised the text and prepared a response noting we did so. When we did not agree with a change proposed by AOC, we outlined the reason for not altering the text. GAO procedures require that we respond to each written comment. (AOC's comments and our responses are detailed in our report in appendix III and at the end of chapters 2, 3, and 4.)

Question. What is your professional opinion of developing 30-year projections? How accurate can these projections be?

GAO Response. We believe that statistical procedures that extend 30 years into the future are not reliable predictors. At best such projections can serve as general indicators of probable trends. As the length of projections extend into the future, the associated confidence interval increases. This is an indication that the precision of the predictions is declining over time. To project 30 years into the future presents particular problems for AOC due to changes overtime in caseloads and the fact that caseloads are determined by factors external to the organization.

During our review, officials from the General Services Administration (GSA) said that their regional offices use only AOC's 10-year projections to support their requests for congressional approval of funds to build new court facilities and to modify existing buildings. As such, AOC's 30-year estimates are not being used by the executive branch for planning purposes. (See p. 49.)

Question. Did the AOC discuss the two different types of space deficits during the review?

GAO Response. No, during our review AOC did not address the concept of two types of space deficits. AOC first made reference to the concept of two types of space deficits in its written comments to our report (see p. 89). In its comments, AOC differentiated between "non-critical" and "critical" deficits. In our report (see p. 44), we recognized that GSA makes an assessment of whether there is an immediate need for additional space or alterations to existing space to meet a critical need or whether the need should be satisfied through the long-range planning process. However, under AOC's process all deficits are added to the occupied space to derive the district's baseline without any differentiation between critical and non-critical needs.

Question. Please define "caseload" as used in your report.

GAO Response. The caseloads used by AOC in the planning process and referenced in our report refer to the number of civil and criminal cases commenced, the number of bankruptcy cases filed, and the number of persons under court supervision. (See p. 19.)

Question. If the caseload figure is inaccurate, please explain how the entire court projection process is flawed.

GAO Response. The long-range planning process may indeed be flawed if the caseload projections are inaccurate. Under AOC's planning process, caseload projections were used to determine staff needs which in turn were used to determine space needs. However, because the initial caseload projections were overridden by the local representatives' subjective input, it is possible that the final space estimates could be accurate even if the caseload projects were flawed.

If, however, AOC were to revise its planning process to reduce the subjective input from the local representatives, the accuracy of the caseload projections would then become a critical aspect of the process. Under a planning process with reduced subjectivity, caseload projections would more directly determine future staff/space needs. (See pp. 53-54.)

Question. What are "key personnel" of the courts?

GAO Response. Under the planning process, the key personnel of the courts were those positions for which staffing needs were derived directly from caseloads. These included district judges, bankruptcy judges, probation officers, pretrial officers, and public defenders. The staffing needs for all other court personnel were then derived from the number of these key personnel. (See p. 20.)

Question. Did GAO question the necessity of the courts using 40 years of historic data as the basis for projecting future space needs?

GAO Response. No, we did not question the use of 40 years of historic data for projecting space needs. AOC used 40 years of historic caseload data as the predictor, with the most recent year of caseload data given the greatest weight. We agreed with the use of 40 years of data because statistically the greater the number of data points, the more accurate the projections. We also agreed with AOC's weighted historic data because this process assumes that the future will be more like the recent past than like the distant past. (See p. 46.)

Question. Did you participate in the on-site planning sessions? How many?

GAO Response. Yes, we attended two on-site planning sessions: the Eastern District of Michigan (Detroit) in June 1992 and the District of Delaware (Wilmington) in August 1992. (See p. 27.)

Question. How were these on-site visits conducted and what was your objective?

GAO Response. During the 3-day on-site session, the 2-member AOC team obtained information from the local representatives to revise the initial caseload and space projections made by AOC. The local representatives participating in the session updated the AOC's current staffing information for the district. The local representatives also identified unmet needs (deficits) and provided information regarding estimated future staff needs. Using this information, the AOC team generated new caseload and space estimates. (See pp. 23-25.)

During our visits to the on-site sessions, our objective was to observe the interaction between the AOC and the local representatives to assess the effects of these sessions on the final determination of space needs. (See p. 27.)

Question. Who participated in the on-site visits?

GAO Response. Besides the AOC representatives for Washington, D.C., the local representatives participating in the on-sites sessions included staff from the six court components (the district court, the bankruptcy court, the circuit court, the probation office, and pretrial office, and the public defenders' office); the court related agencies (the U.S. Attorneys, the Marshals Service, and the U.S. Trustees); and the GSA's regional office. GAO observed but did not participate in the sessions. (See p. 23.)

Question. Is there an on-site or other review and critique of these decisions?

GAO Response. At the end of the on-site session, the AOC staff conducting the meeting asked the local representatives to prepare "assumption letters" that described the representatives' bases for their estimates of future staff changes. The local representatives provided the assumption letters to AOC as support for their final space estimates. In addition, the Chief Judge within the district must approve the final space plan. (See p. 24.)

Question. How are the sessions documented?

GAO Response. The on-site sessions were documented in a "Long-Range Facility Plan" for each district. This package of materials included timelines that show for each occupied building all federal agencies that occupied space, the amount of space occupied, and projections regarding how these buildings could meet future space needs. The materials also included estimates that show when space needs would exceed each building's capacity. (See p. 24.)

Mr. TRAFICANT. Our next panel is Mr. P. Gerald Thacker, Assistant Director, Facilities, Security and Administrative Services, Administrative Office of the United States Courts; accompanied by Dr. Victor E. Flango, Director of Court Research, National Center for State Courts; Mr. Donald Hardenburgh, Research Consultant, National Center for State Courts; Mr. Keith Fentress, Statistical Consultant, AOC; and Mr. Walter G. Moon, Chief, Project Development and Management Branch, Space and Facilities Division, Administrative Office of the Courts.

So while you are all setting up there, I know that you were the focus of all this and you are in the hot seat. Mr. Thacker, I know you have never been afraid of that, given the experience we have had together. So welcome to the hot seat. And I will tell you if you lie to me, you will be handcuffed to a chain link fence and flogged, Mr. Thacker.

Mr. THACKER. I would expect no less from this subcommittee.

Mr. TRAFICANT. That is what Ms. Norton and Mr. Duncan wants, I assure you.

So I go to you first. Your statements will be included in total in the record. If you can summarize, we would appreciate it, so we can get down to business, Mr. Thacker.

TESTIMONY OF P. GERALD THACKER, ASSISTANT DIRECTOR, FACILITIES, SECURITY AND ADMINISTRATIVE SERVICES, ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS (AOC); ACCOMPANIED BY VICTOR E. FLANGO, DIRECTOR OF COURT RESEARCH, NATIONAL CENTER FOR STATE COURTS; DONALD HARDENBURGH, RESEARCH CONSULTANT, NATIONAL CENTER FOR STATE COURTS; KEITH FENTRESS, STATISTICAL CONSULTANT, AOC; WALTER G. MOON, CHIEF, PROJECT DEVELOPMENT AND MANAGEMENT BRANCH, SPACE AND FACILITIES DIVISION, AOC; AND ROSS EISENMAN, BRANCH CHIEF, PLANNING AND ANALYSIS BRANCH, SPACE AND FACILITIES DIVISION, AOC

Mr. THACKER. Yes, thank you very much, sir.

Before addressing the specific issue before us, if I could bring you up-to-date, please, and members of the committee, in a couple of actions that were taken at the September meeting of the Judicial Conference of the United States that are of interest to this committee.

First, the Judicial Conference endorsed, in principle, the bill introduced by and passed by this subcommittee on smoking in Federal buildings, with the request that some consideration be given to providing for smoking facilities for jurors in courthouses, if needed.

Second, the conference expressed support for this subcommittee's actions in developing capital financing and alternative financing of capital projects.

I would like to introduce, in addition to my record, or comments into the record, if I may, please, a copy of the report by the National Center for State Courts.

Mr. TRAFICANT. Without objection, so ordered.

Mr. THACKER. Which was referred to earlier, by Mrs. Norton. And also a report, if I may, by Chief Justice R. D. Nicholson of the Supreme Court of Western Australia, who was an international judicial fellow with the Federal Judicial Center here in Washington, and has developed a paper which he is delivering to the Australian Institute of Judicial Administration that has some analysis of this planning process and its applicability to the Australian judiciary.

So if I may introduce that or provide that later for the record.

Mr. TRAFICANT. Without objection, so ordered.

Mr. THACKER. Also, today, if I may also introduce Mr. Ross Eisenman, who is the head of our program analysis office and the space program, and he will be assisting me with some charts that I hope will help us speed through a discussion of what we have all seen is a very complex issue.

If I may start, please, with some outline of why we felt we needed to do long-range planning in the Federal judiciary.

THE JUDICIARY'S LONG RANGE FACILITIES PLANNING PROCESS - -
A CONTEXT FOR DECISION-MAKING

WHY ARE WE DOING

LONG RANGE FACILITIES PLANNING ? ? ? ?

- BRAND NEW BUILDINGS WERE OUT OF SPACE AS SOON AS WE MOVED IN
- IT WAS TAKING AT LEAST FIVE YEARS TO PROVIDE FACILITIES FOR A JUDGE
- LACK OF SPACE HAS CAUSED SPLIT OPERATIONS AND RESULTED IN WORKFLOW INEFFICIENCIES AND SEVERE SECURITY RISKS
- ALMOST 13,000 POSITIONS HAVE BEEN AUTHORIZED SINCE 1983



Mr. THACKER. First, we were finding several years ago that we were building buildings and occupying them and finding out that very quickly those buildings were out of space. There was no provision for expanding the buildings either within the shell or on the site. Consequently, we were coming back to the Congress, both from GSA and at the request of the judiciary, saying we are out of space and we need another building. The Congress asked, why are you back here; why are you not looking ahead a bit so that we are not having to address these same problems in the same communities over and over again?

We had in 1986 and 1987 a study done by the National Academy of Public Administration to look at the space problems of the Federal judiciary. One of the findings of the National Academy was that the Federal judiciary was involved in a fairly long process of providing space.

As this committee knows, that whole process may take five to seven years before a new building is actually built and can be occupied. They found that Federal judges appointed in 1978 and the omnibus bill in 1984, were, on the average, waiting 18 months before office space was available for them, and some were waiting as long as seven years before office space was available for them.

The National Academy put the blame for this squarely on the judiciary and said, in effect, the judiciary needs to develop its long-term space needs so that those space needs can be presented to GSA and to the Congress in a timely way so that the GSA and the Congress can act on them and that the space needed for new judicial officers and new staff can be provided when it is needed.

We also were finding there were some inefficiencies and costs to the taxpayers of having to split court functions into several locations. If I may use the district in Ohio, of which the Chairman represents a part, as an example, we now have in Cleveland a courthouse in which active district judges occupy all of the space in that courthouse; senior judges, who are carrying a substantial caseload still for that district, are now in leased space; the bankruptcy court is moving into leased space; the magistrate judges in that district, in Cleveland, are in leased space.

Those are obviously inefficiencies for the staff, inefficiencies for the litigants, inefficiencies for attorneys and, we believe, dangerous because of the dispersion of prisoners in custody among those locations.

We also, of course, have had during the past 10 years almost a 90 percent increase in staffing and judicial officers in the Federal judiciary from 1983 to 1993, reflective largely, we think, of the increased jurisdiction and caseload to the Federal judiciary.

THE FEDERAL JUDICIARY COMPARISON OF STAFFING 1983-1993

Personnel	Permanent positions		Difference	Percent increase/decrease
	1983	1993		
Article III Judges	659	828	169	25.64
Senior Judges	230	345	115	50.00
Other Judges:				
Court of International Trade	9	9	0	0.00
Court of Federal Claims	16	16	0	0.00
Bankruptcy Court	222	326	104	46.85
Magistrate Court	223	375	152	68.16
Subtotal	1,359	1,899	540	39.74
Support Staff:				
Judges' Staff	3,642	5,162	1,520	41.74
Federal Circuit	61	93	32	52.46
Court of International Trade	94	77	(17)	-18.09
Clerks' Offices	5,155	11,310	6,155	119.40
Circuit Executive' Offices	45	114	69	153.33
Probation Offices	2,808	5,339	2,531	90.14
Pretrial Offices	126	878	752	596.83
Staff Attorneys	192	388	196	102.08
Librarians	124	266	142	114.52
Court Reporters	558	684	126	22.58
Other	167	114	(53)	-31.74
Subtotal	12,972	24,425	11,453	88.29
Federal Defenders	329	1,038	709	215.50
Court Security	0	23	23	(¹)
Bankruptcy Administrators	0	53	53	(¹)
Subtotal	329	1,114	785	238.60
Grand Total	14,660	27,438	12,778	87.16

¹ Not applicable.

Mr. THACKER. The next chart I refer to, if you have the packet of charts before you, is a chart that has served as something of a benchmark for us in developing our planning process. Mr. Nye Stevens, with the General Accounting Office, has done a great deal of work on this and has written and spoken a great deal on this area, the need for capital planning within the Federal Government, and we have taken his model of what a planning process should be as our own model for developing a planning process for the Federal Government.

GAO'S VIEW OF GSA'S PLANNING PROCESS

"WITHOUT A CAPITAL INVESTMENT STRATEGY THAT IDENTIFIES TOTAL SHORT AND LONG-TERM SPACE NEEDS, RELATIVE PRIORITIES, AND FUNDING REQUIREMENTS, CONGRESS CANNOT (1) SYSTEMATICALLY AND RATIONALLY IDENTIFY THE MOST CRITICAL OR MOST COST-BENEFICIAL PROJECTS TO BE CONSTRUCTED OR RENOVATED, (2) MONITOR GSA'S PERFORMANCE IN MEETING OVERALL SPACE NEEDS, OR (3) ANTICIPATE FUTURE CAPITAL INVESTMENT FUNDING REQUIREMENTS."



L. NYE STEVENS
DIRECTOR, GOVERNMENT BUSINESS
OPERATIONS ISSUES
GENERAL ACCOUNTING OFFICE

BEFORE THE SENATE COMMITTEE
ON ENVIRONMENT AND PUBLIC WORKS
AUGUST 1991

Steps In The Whole Process

All Court Offices
U.S. Trustees
U.S. Marshals Service
Local GSA Staff
U.S. Attorneys

Local District's Space Analysis Compiled in the Long-Range Plan

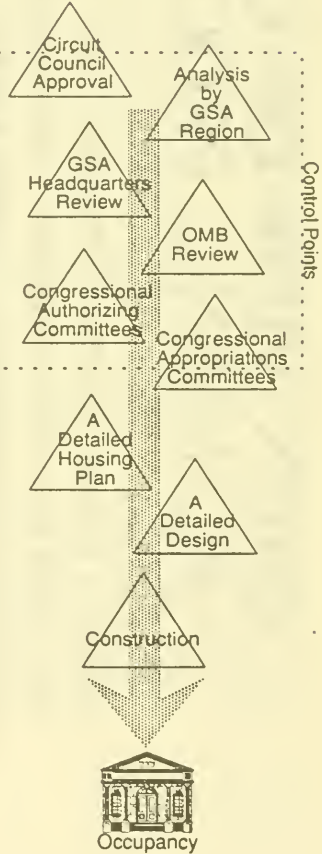


Short Term Space Needs

New Facility



Control Points



Control Points

Mr. THACKER. It is a complex process with many players but not one without a number of checks and balances in it. The process that we are really talking about—the portion of the process we are really talking about today is the initial development of space needs projections for a geographic judicial district. That long-range plan has input not only from the local court officials, judicial officials, but also from the executive branch, departments and agencies that are directly affected, the U.S. Attorney, the U.S. Trustees, the U.S. Marshals Service, and the local GSA planning staff.

Out of that long-range planning effort may come a list of short-term space needs that needs to be accomplished in the building. Out of that long-term planning effort may also come a request for a new facility that goes to the General Services Administration.

The numbers of checks and balances, I think, then, that come into play, include a requirement by statute that the judicial council of each circuit approve accommodations so there is a review of a specific space request to GSA by the judicial council for that particular area; there is analysis by the GSA regional office before submitting it to the GSA project planning and review board.

Having had the pleasure of both presenting projects to that planning and review board on behalf of the judiciary, and for six months, while I served as Commissioner of the Public Buildings Service, chairing the Project Planning and Review Board, I can assure you they do get rigorous questioning, both about need and cost.

Those projects, then, are passed to the Office of Management and Budget where they are reviewed and fitted into an overall budget for the executive branch before coming to this committee and your counterpart committee in the Senate. And, again, having appeared before this committee both on behalf of the judiciary and as Commissioner of the Public Buildings Service, I can assure you that you have no reputation in either of those organizations as a rubber stamp, and then, finally, to the appropriations committees of both.

It is a process that in this particular subcommittee included some 13 court projects during this year. And we take very seriously your admonition that when you are spending almost half a billion dollars on those projects in this year, of taxpayers' money, that you want to be assured that you are spending it wisely, and that certainly is a legitimate concern.

After the project is authorized, of course, then a detailed design plan is developed, a detailed plan or detailed design for the project is developed and finally the project is constructed.

So, again, I think it is clear that while the very first part of this process is very important and it is the focus of our attention today, that there are a number of other steps in the process at which the projects do receive very close scrutiny and careful examination both before coming to you and after they get here and then certainly after authorization in the actual design of the project begins.

I think it may be interesting also for us to again mention very quickly that the projects that you have been looking at and examining for the past three or four years, 1990, 1991, 1992 and 1993, are projects that have not been brought to you based upon future projected needs but, in fact, are projects that are out of space today.

They are representative of the projects such as the one in Cleveland, which you may be seeing in a year or two, where all of the units of the executive branch have been moved out of the courthouse, even units of the court, except for the active district courts, have been moved out, and there are expansion needs. Staff and judges with no place to work. That is not based on future requirement but based on current need.

Let us very quickly say that we appreciate GAO's efforts, and as GAO indicated, many of the recommendations that were made by the National Center for State Courts about our planning process were very similar. I think the major difference of opinion is while the National Center for State Courts has termed those minor modifications, the General Accounting Office has considered them so serious that they feel that the information cannot be used by this committee at all. And that may be a point that I would like to spend just a couple of minutes on.

CONSISTENT TREATMENT OF PLANS

JUDICIARY SUPPORTS

A. GAO belief that the Judiciary should revise plans completed during beginning phases of the process:

- Recommendations already incorporated into the process
- Judiciary has gained experience since beginning of process
- District-wide updates initiated for all of the original plans
- Specific planning data for each project reviewed prior to submission to GSA

JUDICIARY SUPPORTS, WITH RESERVATION

B. GAO belief that the Judiciary should consider caseload complexity in determining growth model categories instead of raw or unweighted caseload data:

- Growth model categories address case complexity
- Streamlined process forecasts court trends and patterns in an easy to understand and effective manner
- Process consistently has used unweighted caseload filings
- Will accounting for case complexity in a more rigorous way significantly improve project approval process?

ADJUSTMENT OF THE STATISTICAL METHODOLOGY

JUDICIARY DOES NOT SUPPORT

GAO view that the planning process is *only* a statistical procedure and projections beyond 10 years are not useful:

- Planning process cannot be performed as an isolated mathematical procedure; it requires input from court officials, local on-site data gathering, and mutual cooperation and consensus
- Judiciary estimates *are* within limits of GAO confidence levels
- Projections beyond ten years are useful for sizing sites

ESTABLISHMENT OF THE STARTING POINT (BASELINE)

JUDICIARY DOES NOT SUPPORT

GAO belief that the Judiciary's process generally overestimates or underestimates the amount of space needed in a given District:

- GAO Analysis overlooks current inventory as a starting point
- Space configurations in current facilities not considered
- GAO assumed current staffing equals actual need
- GAO assumed all offices for each district are located in one facility
- Only by incorporating input from on-site staffs can functional and non-critical shortcomings of existing facilities be assessed
- Spaces below Design Guide standards not used to determine need for new facility

Mr. THACKER. But if I could very quickly say that we certainly support the recommendation that all of the plans should be revised to reflect current space standards, current planning techniques, and that has been done.

We support with some reservation, and would like to discuss with both with the National Center for State Courts and with the General Accounting Office, the other recommendations about caseload complexity and how that should be used in this particular planning process. But, again, there are some helpful comments and comments that we would like to discuss in a bit more detail before implementing.

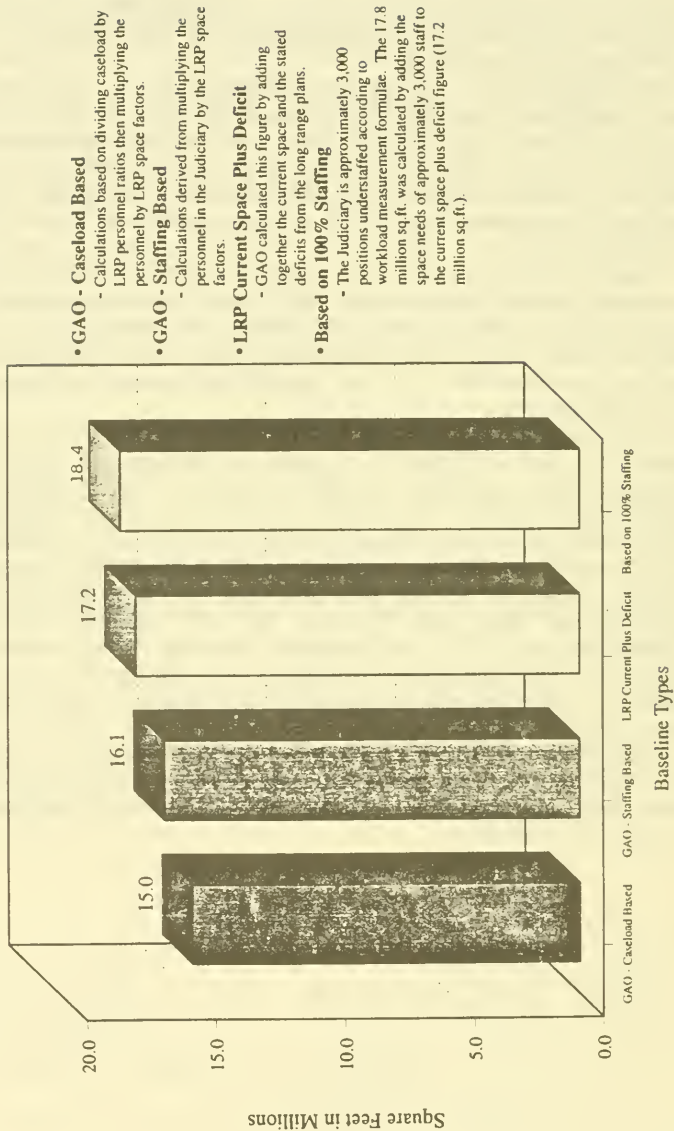
What we do find, I think, out of the report, that we feel needs to be discussed before this committee are two contentions: First, that we have more space today than we need and the second contention that the process develops information that this committee cannot use because it is so unreliable in evaluating projects that come before you.

The General Accounting Office is an extremely credible institution. It is one I admire a lot, and when they say something, it deserves paying attention to. When we saw their analysis that indicated that we have overstaffing and more space than we need, and we looked at the fact that by workload measurement numbers on the average we are 15 percent understaffing for the caseload that we now have, when we realized that we had looked at almost 75 districts now and had identified 40 to 50 facilities that were out of space and needed to be replaced or expansion space needed, we knew there had to be some explanation for the General Accounting Office's view that we have one to two million square feet of space more than we need today.

We think we understand why, and, in fact, the Chairman has, we believe, touched upon the reason why there is a difference in view. Let's go, if we could, Ross, to the baseline chart and just take a quick look at that.

Baseline Calculations

Judiciary and GAO Comparisons



We think the difference is in this. This represents sort of the relative numbers that we are talking about. The first bar is the amount of space GAO believes we should have today in our current inventory based on one of their methodologies; the second bar is the amount of space based on the second methodology they used to calculate how much space we should have today; the third bar is actually how much space we do have today; and then the fourth bar is how much space we would have if we were fully staffed today using our design guide space standards.

Now, if we could go back, Ross. Yes.

We think there are two reasons for this discrepancy. The first is that the General Accounting Office, in calculating how much space we should have today, used space standards for new construction of a single facility.

Say that another way. In calculating, comparing how much space we have in a particular district to how much space they feel we should have in each district, they ignored the fact that we have multiple locations in almost every judicial district in the country. That means that there are some locations within a district that are obviously underutilized, and many of you may have some of those districts, some of those buildings within your own districts.

There are, for example, I believe seven locations in holding court in the northern district of Alabama. The main business of that district takes place in Birmingham and the outlying courts are lightly staffed and used infrequently or, in some instances, have no staff and are only used on occasion during the year. But they are statutory locations of holding court. They are locations where there is business, and, for a number of reasons, they have continued to be maintained in the inventory.

There are other locations, obviously, California's central district, where multiple locations are absolutely necessary. The districts are so large and the traffic so heavy that it is simply infeasible to believe you could conduct all your business in one location. In fact, the Chairman has indicated that one of the things he would like to see us consider on projects that come before you is the use of existing facilities throughout the district; how they are being used and could they be better used before a particular project is approved; a perfectly reasonable request.

The second reason we think there is a discrepancy between what we would have if we were building brand new space and putting everybody into one building in each district is that most of the buildings that we are in today are not new buildings. I believe, doing this somewhat from memory, but I believe GSA has about 300 buildings in its inventory that are on or eligible for the National Register of Historic Buildings. Almost half, if not more than half of those, are Federal courthouses.

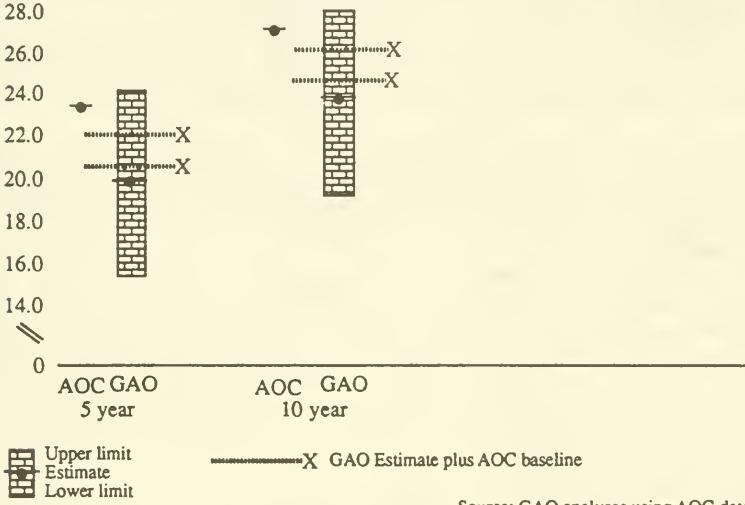
From the period 1981 to 1991, GSA spent about \$63 million a year on courthouses. Not for new ones but for expansion within existing ones. The last major courthouse construction program was in the 1930s. So we are in buildings that are 40 and 50 years old. They are not very efficient buildings. They are certainly not as efficient as we would build today.

So we believe that when these factors are taken into consideration, that is, that we are not in a single location in each district;

in fact we are scattered in most districts in several locations, and that most of the facilities, courthouse facilities that we are in today, are older, inefficient buildings, that would in fact account for this one to two million square feet of space that the General Accounting Office feels we have today that we do not need.

Estimates of Space Needs for Court Components Using Standard Statistical Methods and AOC Projections

Million square feet



Source: GAO analyses using AOC data

We had some verification of this, we thought, when we took a graph from the GAO report, and if I could I will ask Mr. Eisenman to point at a couple of things as I discuss them. This graph, which we have modified a little bit, and I will explain how, represents the 5-year and 10-year space estimate of the General Accounting Office and the center dot indicates where they feel the space needs are at the 5-year and 10-year period based on their statistical projection and using the baseline as they developed it.

The other sort of hatched in areas of this bar is a confidence interval; that is, space projections could fall anywhere within that confidence interval and still be, as I understand, statistically reliable.

The black dot with the line through it outside of those two charts, or bars, are the space projections developed by GAO based on our method or our process of developing space needs, which I would indicate do fall within the confidence intervals as well, but on the higher end of it.

Now, what we have done, to verify whether our feeling was correct that perhaps the difference is in this inventory of existing space that we may not be able to do a lot about right now it doesn't do us much good if we need space in Montgomery to know we do have more space than we need in Opelousa. The business is in Montgomery; that is where the space has to be built. We added the baseline back in, that is the current inventory back in, and that is represented by the X's.

And as you can see, both at the 5-year and 10-year period, when you add the baseline back in, the projections come much closer to what GAO says our projections are.

The other area or the other contention that we were just surprised at, based on the report itself, was that GAO felt that the information developed was so unreliable that this committee could not use it for making decisions. That is, we felt, a pretty harsh criticism for what, again, the National Center suggested should be some minor modifications. Rather than focusing, we think, on the whole process and the information that comes to you out of that whole process, perhaps the GAO focused on the very first part of the process, which the initial projections are developed before they are refined by the judiciary, by GSA and by this committee, when might lead one to believe that the information is unreliable.

Aggregating the requirements for a district into a single number might also lead one to believe that the information is unreliable. But, again, we don't ask you for space in aggregate; we don't ask you for all of the space for a whole district. We come to you with one project at a time. And while our process is not perfect by any means, and we admit it readily, we do think that the information you are getting is good information when you actually get a project to review.

We are very happy to defend it, we are very happy to discuss it, and sometimes you ask extremely good questions that cause us to go back and look at things again. I personally have spent several hours with Mr. Duncan, for example, going over the space requirements and housing plan for the courthouse in Knoxville before the project got under way. He asked some good questions and we went back, worked with the U.S. Attorney and the judiciary and GSA

and, as a result of his questioning, got the U.S. Attorney in the building, I believe, and saved the taxpayers a lot of money in leasing.

But I think that is the kind of information that is very site specific and we have to look at each project one at a time.

So, two points of agreement and a couple of points of disagreement. We certainly agree that we want to look at our statistical methodology and make sure that it is reliable and defensible and replicable. We want to look at the other suggestion made by GAO about how we do our projections and make the necessary changes there in conjunction with advice from the National Center for State Courts, but we did not feel that we could leave on the table the assertion that we have more space than we need today, and the possible implication of that, that there are projects coming before you where we do not need space; or the overall characterization of the whole process, that it is unreliable and that you cannot use it for making decisions. We do not agree with either one of those.

If I may respond just briefly to a couple of issues that came up today on specific projects. If we may, Mr. Duncan, we would like to submit to you and perhaps, for the record, if you would like, some explanation of the specific projects that you raised questions on. Be very happy to do that.

Mr. TRAFICANT. Without objection, so ordered.

Mr. THACKER. We are very much concerned, as you are, about the cost of individual courthouses, and have convened with GSA a panel of engineers and architects and contractors to look at why Federal buildings and, in particular, Federal courthouses cost what they do. We have some experience now with buildings designed under the U.S. Courts Design Guide actually coming on line.

We have a very tough example to follow now. The U.S. courthouse in Kansas City, Kansas, has almost been completed, and I believe the construction cost on that was something like \$102 a square foot. Now, I cannot promise we are going to replicate that, but I think it is an indication that Federal courthouses are not necessarily expensive buildings.

I don't want to appear to be contradicting in any way Delegate de Lugo's comments. I would like, again, if I may have the opportunity to present for the record, in conjunction with GSA, some explanation of the growth in the court space requirements in Saint Croix and the location of the building in Saint Croix as well as the current situation of the building in Saint Thomas.

If I remember correctly, I think one of the reasons that GSA has, and the judiciary feels, that in order to expand the building in Saint Thomas we will have to move off the existing site, is because there is a committee resolution that says the building cannot be expanded unless a certain number of parking spaces can be provided as part of the project.

As the Representative indicated, the only available site, apparently for providing that parking, was purchased by the local government and is not available. So I think it is something of a conundrum that we are in; that is of needing to expand both for the courts and Federal agencies, as the Representative indicated, and having a direction, as I remember from the Congress, that expan-

sion on the site should not take place unless there were a certain number of parking spaces provided with it.

But if I may give you that information in some more detail for the record, I would appreciate it very much, and that concludes my remarks. Be very happy to answer any specific questions you might have, and the people here with us today, who have been working with us on this process, would be very happy, I am sure, to answer questions.

Mr. TRAFICANT. Mr. Thacker, I want to thank you for coming in here and giving your testimony. I want to also thank you for the role you played in helping to get the Judicial Conference to look at H.R. 881, the smoking bill. It is certainly a controversial element, but I think it is probably the finest piece of legislation that could deal with that.

I want to assure you your concerns and the concerns of the Judicial Conference and jurors about that space will be addressed. Also want to thank you and commend you for looking at that scoring aspect. We understand a lot of the limitations that you have are probably due to some of the legislative limitations that have been placed upon you.

I am going to defer to other people, but I want to thank you for coming here. I want to thank you for being available to me, and I know to Mr. Duncan, Ms. Norton and anybody else. We appreciate that.

And one other thing I would like to say is Mr. Duncan has taken a lead on much of the waste, especially as it effects this committee. I think Ms. Norton, from her perspective, has looked at some of the process. Any time they make a request of you, it is completely valid from this committee, and this whole committee stands behind their efforts. So we want to help, we want to improve things, and we want to have the people who know it the best to be the ones to keep an eye on those things.

So I appreciate your communication with this committee and I will defer first to the gentleman from Tennessee, Mr. Duncan.

Mr. DUNCAN. Mr. Thacker, first of all, I want to thank you for your testimony, and you and I have been talking about things like this for several years now and you have always been a very professional and competent witness before this subcommittee, and also you have always been very helpful and prompt in providing us with whatever information we have requested from you at times when it did not involve a hearing, and I want you to know I appreciate that.

And I do thank you for your efforts to try to hold down some of these costs, and I recognize that you sometimes, or maybe very often, are caught in the middle, so to speak, because you have your Federal judges, who some of them want as much as they can possibly get and they are making demands on you, then you have many Members of Congress, who, frankly, they want as much as they can get, then you have a few others, who, like some of us, are questioning some of these things. And so you are being tugged and pulled in several different directions, and so I appreciate that that is a very difficult position.

But I will say this, if it was not me questioning some of these costs, somebody else would be. And this is a matter, as I said in

my opening statement, that is of tremendously growing concern out in the general public. It is just unbelievable to me how upset the general public is about wasteful government spending, and I am glad to see that. And national news organizations, like Prime Time Live, have been focusing on this, and U.S. News and World Report, and many others. And if we were not questioning here in the Congress, I have a strong feeling that the media would be questioning it, and that they should be questioning it.

I do want to say, too, that I compliment you and I am glad that you started a new review process in working with the GSA and others to take a closer look at some of these projects. I said a few weeks ago, and of course, you know I am a Republican and we have a Democratic administration in there now, but I don't think that—I think that if I was the administrator of the GSA, as Mr. Johnson is now, that I would be handling things in exactly the way that he is, at least from what I have been able to see so far. And he has now instituted this review of these 188 major projects, every project practically I think that the GSA has that has not started construction on as of yet, and it includes the new courthouse proposed for my district.

And I tell you I am glad they are looking at all of them, including the one in Knoxville and all over this country. And I think they are going to find that some of them are already scrubbed down, so to speak, and have passed every test they can apply, but then they will find some are excessive.

I mentioned in my opening statement the \$216 a square foot in Phoenix, but let me just ask you this before I go further with my statement. I have been told that the Federal courthouse in Boston is going to cost \$400 a square foot. Surely that is not correct.

Mr. THACKER. You are correct, it is not correct. The budget number for the project in Boston is, I will give you the specific number, but I believe it is \$221, \$222 a foot.

GSA has, based on some recent studies, study of design projects, in design and construction costs, developed sort of a benchmark against which construction cost estimates can be checked. They have taken the number, as Ms. Clark mentioned, of about \$180 a square foot for a Federal courthouse of a certain size to be built in the Washington area and then have extrapolated those costs to various parts of the country.

And I believe their examination of the estimated cost of the project in Boston against the benchmark number they developed for Boston projects is \$2 or \$3. The benchmark is \$2 or \$3 above the estimated construction cost.

Mr. DUNCAN. You do know that many of these projects in the past, the costs have been underestimated.

Mr. THACKER. Yes.

Mr. DUNCAN. And I would just say to you that in regard to the Boston courthouse that is one you better keep your eye on.

Mr. THACKER. I understand, and it is one that is being very carefully watched both within the judiciary and within GSA.

Mr. DUNCAN. You know, you talk about the future needs. Now, I might say this. You know, Forbes Magazine had a cover article just a few months ago about the great—what they felt was overexpansion of the Justice Department, and I think a more than

tripling of the number of prosecutors and judges and other sort of personnel in the last 10 years, far exceeding the increase in the crime rate, and we have Federal prosecutors now that are struggling around trying to find something to do.

I had a Federal judge, who I had lunch with a few months ago, who told me there was a saying that "Sweat from a Federal judge's brow was rarer than fine silver." I had never heard that before, but that is what he told me. We have some Federal judges who seem to be taking vacations more than they are at work.

I think that we need to be careful when we are talking about these statistics that we base these future needs on caseload statistics, which can be juggled and can be the most deceptive and misleading statistics of any statistics that I have ever seen. I will give you an example of what I mean.

If a judge takes 25 guilty pleas in, say, a forgery prosecution, because almost no one just forges one check. They usually forge a whole group. But those cases, while in years past—and another thing that is deceptive is, in years past, sometimes cases used to be put all in one indictment. Now, because courts want to make it look like they are doing more, they will put things in 25 separate indictments sometimes. But they come in and take 25 guilty pleas in a relatively short time and then that judge is through, say, at 10 o'clock in the morning or early in the morning.

Then you have another judge down the hall who is trying a death penalty murder case that will go on for two weeks, or some real complicated civil case, and let's say that that case ends up in a hung jury; that case where there has been two weeks of trial and maybe a trial that goes late at night or even on the weekends, and maybe it ends in a hung jury and that case is not even disposed of. Which judge has done more work; the one who has disposed of 25 cases or the one who has tried the case that has ended in a hung jury?

I think almost anybody would tell you the judge who has been in trial for two weeks has worked a whole lot harder.

So the most accurate statistic is something that I almost never see and that is actual days spent in trial, actual days spent in trial. You almost never see that.

This is no criticism of Federal judges, but I want to say this: If some news organization went around this country and picked a day at random and, say, at 3 o'clock in the afternoon, they would find 95 percent of these courtrooms unused.

Now, I realize, and the reason I say it is not in criticism of the judges, because the judges do work outside the courtroom. So they are not just working when they are in the courtroom. But what I am saying is this, that one of the problems that we have is that we are building these huge courtrooms, and they are very costly and expensive to build, and they are the most unused space in the whole Federal inventory that we have, and that needs to be considered.

You need to look at figures on actual days, actual full days spent in trial, and in some districts that will be more than in other districts.

You gave the example of the northern district of Alabama and how there are seven different courtrooms or places where they hold

court. We need to look at things like that and we need to stop doing those kinds of things because we cannot afford to build all this unused space in the future. Do you understand what I am saying?

Mr. THACKER. You are making a couple of excellent points, that if I could respond to a couple of them for you.

Mr. DUNCAN. Sure. Sure.

Mr. THACKER. I think one of the advantages of the planning process that we are using today is not just in projecting future requirements, but it is in documenting what is taken into consideration in projecting those future requirements; the specific decisions that are made or assumptions made by each of the districts when they decide this is how we think we are going to grow.

Because when things change, when the bankruptcy filings don't grow for a few years and you begin to see that trend has leveled out, or where there is a reduction in the number of assistant U.S. Attorneys, and as you very accurately point out, we see a real relationship, sort of a lag of a year or so after the appointment of new assistant U.S. Attorneys and increased filings within a district, if in fact this Administration makes a conscious decision to reduce the number of assistant U.S. Attorneys and, consequently, the number of cases coming into Federal court in specific areas, we will be able to go back to the long-range facility plans that were developed and take those changes in administration policy into account. So your point is well taken.

There are a number of factors that affect what happens in the growth of caseload, and we believe we are capturing how those factors are taken into account in each district so that when changes are made we can go back and reproject, in effect, the amount of space that is needed.

I think you have also made some other good points that we will take to heart. If we may discuss with your staff how Federal workload standards are kept, we would be very happy to go over some of that.

Mr. DUNCAN. Well, you can discuss that with my staff. I have a good staff. And you can also discuss it with me.

Mr. THACKER. Be happy to.

Mr. DUNCAN. I don't want to dominate this hearing, because we have other fine Members here who have too many other important things to do. I just want to say that I think that you understand where I am coming from and I think and hope that we are on the same team, trying to make some changes around here that will, hopefully, help the taxpayers, and it is something that is long overdue, I think.

Mr. THACKER. You raised another question, I think about the courtrooms themselves, and even though they don't represent a lot of space in a modern courthouse or a large percentage of the space, they are expensive parts of the building to build, and this committee has called several times on us when both judges and administrative office staff have testified to consider sharing of courtrooms in Federal courthouses.

I think there are some ways business is done in the Federal system and the way cases are calendared that make that a little difficult to do, but in the courthouses that are being designed today,

I can think of at least three—Concord, New Hampshire; Kansas City, Kansas; and Saint Louis, Missouri—where there is provision being made to have unassigned courtrooms that are used by judges only on an assigned basis; that is, the courtrooms are not assigned to a specific judge permanently but are used, assigned to a judge for a specific case.

Mr. DUNCAN. Well, that is good. Of course, I was a circuit court judge in Tennessee for seven and a half years, a straight trial judge, whatever you want to call it, and it seems to me these courtrooms are so out of whack because, frankly, where you need the bigger courtrooms are in the smaller courts, what in Tennessee we call the general sessions court, small claims court, the misdemeanor courts.

You go to those courts, and they go through so many cases all at once, but you will see 250, 300 people in those courts. People standing around the walls and having to wait outside. Then you come up to a court like I was handling, I had a big courtroom, and I tried some of the biggest cases that came in our area, and yet we would, for some cases we would have big crowds in there, but for most cases the crowds were very small. And for most cases in Federal court—I have tried a lot of cases in Federal court as a lawyer—most of the time the Federal court cases, with a very few exceptions, don't have many people in the courtroom.

So you really don't need these gigantic courtrooms in most places.

Mr. THACKER. I don't want to leave the impression that it is an accepted practice or that there is a big change, but I think it is under consideration, and I would not have been able to say that two years ago or three years ago. And I think it is being very seriously considered—

Mr. DUNCAN. That is good to hear.

Mr. THACKER [continuing]. In every courthouse that is being designed today.

Mr. DUNCAN. Thank you, Mr. Chairman.

Mr. TRAFICANT. Two things before I go to Ms. Norton. I want to say this. Mr. Duncan is a Republican, and there is a Democratic administration that I work hard for. What Mr. Duncan is doing is right and he has the support of this Chairman. We want to do this right and we think he is on target completely, number one.

Number two, I think we have Federal courts that sit around doing some high profile things and they don't do a whole lot sometimes. I am one that believes that a first degree murder case, with all the murder we have in America, at some particular point through the process, once determined, should be remanded and be a Federal offense and tried in Federal courts, and I think we would put a few Federal judges to work.

I am not so sure they would agree with that and not so sure Congress would agree with that. I think we have come to the point where I think these caseloads are legitimate. I think what Mr. Duncan is saying is practical, he has experienced it, and we have to take a look at this and we mean to do that.

With that, I will go to Ms. Norton.

Ms. NORTON. Thank you, Mr. Chairman.

Mr. Thacker, I think we should mention the sharing notion at Saint Croix by the Majority Leader who wrote to the chief judge and asked that that be done. I wish that, in fact, that had been an initiative of the courts itself, and I suppose what I do is challenge you to name another situation where the Judicial Conference has ordered that or where your office has suggested it or the Administrative Office of the Courts has suggested that.

It should not take powerful Members of Congress to bring forward what, for Federal agencies, I have to tell you, would simply be a common sense way of operating.

Let me say that we do not operate from ignorance about what this Congress has done to the courts over the past several years. We have dumped more jurisdiction on the Federal courts than they could have possibly imagined. When we see a problem we put it right in the Federal courts because we don't have jurisdiction over State courts. It has been something to behold. So we start from that understanding.

We believe we had to do this. This is a litigious country. This is a country that ought to be grateful that when it finds a problem it tries to find a court to solve that problem. There are other countries that find other ways to solve these problems. And we may have overdone it, but I want you to know that when we ask questions, when the Ranking Member asks questions, we ask from that base of knowledge, and we ask knowing that we have done virtually the same thing to other Federal agencies.

We have increased the jurisdiction of Federal agencies as we perceive from our constituents and from our understanding of these jurisdictions that expansion is necessary. But if you look at the buildings on Constitution Avenue and Pennsylvania Avenue you will not see them proliferated ad infinitum.

The Federal workplace has expanded; there is no question about that. It has expanded in this area, in parts of Virginia and Maryland that are further away, but it has been nothing like the expansion of and the space of the Federal courts.

We also understand that there was a period in which you were not building courthouses. We are trying to keep all of this in mind so that our criticism will not be gratuitous and will not be ignorant.

I am aware, for example, that the Congress has required statutory advisory commissions of a local bar to look at the District courts. Some of them have made very important recommendations. The President of the United States has given this Member, for the first time in American history, the opportunity to name judges on our own District court and to name a U.S. Attorney. And, indeed, I have had to look closely at those courts and what they do in this jurisdiction.

For example, where the courts, even the local courts, are federally appointed, the U.S. Attorney has the right and has seized the right to file even small drug matters, criminal matters, in the Federal court because there are mandatory sentences in the Federal court. And, of course, we have the most extraordinary consequences as a result.

We have people who are first offenders with small amounts of drugs getting 10 years, while the fat cats for larger amounts of drugs get the same sentences as these small agents.

I understand, and our own statutory advisory commission understands, alternative dispute resolution has been underutilized by the Federal courts and great headway is being made in trying to change that. But I have to tell you, Mr. Thacker, and those of you at the table, your formula, and no formula we have been presented with accounts for or takes into account high ceilings and personal showers for judges. The add-ons are part of the problem here and they are of course what makes this, in many ways, an inflammatory subject for Members of Congress who are unwilling to put money into bricks and mortar when services have to be cut.

On the separation of powers point, I indicated that there are not serious separation of powers problems when it comes to raising and spending money. The courts objected this very term on separation of powers grounds—based on a statute that has been passed—to the Administration, in transmitting the budget of the courts, commenting in light of what amounts to crisis budgeting by the Government of the United States.

You know, like rose on their hind legs, instead of trying to cooperate, as the Congress does with the Executive Branch, the courts essentially said you have no business making comments about our budget, and then parsed this statute and essentially involved themselves in a major dispute with the President of the United States over whether or not he ought to have anything to say to the Congress of the United States; any comments to make about this budget.

In a real sense, Mr. Thacker, there are trivial separation of powers points that can be made in that regard. The Congress is going to get it anyway. Tell the courts that; that trying to muzzle the President of the United States won't work because the courts have to come before this body, and we will bring agencies of the executive before this body to compare what the executive does with its agencies with what the court does.

In a real sense, GSA has a legitimate quasi OMB role to play here, because OMB does not play that role. And OMB plays that role to a fare-thee-well with executive agencies. In a real sense, oversight of a kind congressional committees do cannot make up, Mr. Thacker, for the guidance the courts need. In a real sense, if somebody took me to the candy store and said you can have any lollipop you want, you just tell me what it is, then I suppose I could find a number of different lollipops I would want.

I think in a real sense the courts have not been disciplined because Congress has not performed its proper role in doing so, and judges are only human. If they can get high ceilings, they want them. I love them. When looking for a house, I went looking for one with high ceilings. And if you can find a shower of your own and you can find someone stupid enough to give it to you, you are going to ask for it.

These controls have to be imposed in a way that will make people understand that they are competing for funds in a pot that is more and more scarce and it is going to continue to be scarce even as we bring the deficit down. We are competing in a world that is very different from the world in which the original courthouses were built.

I want to ask you, Mr. Thacker, since courts say they depended upon the GSA to prioritize, whether you prioritize; and if so, how you prioritize when courts present their desires to you?

Mr. THACKER. The prioritizing of space needs of the judiciary is not something we are not capable of doing. It is something we have not done for GSA, if I may say so, out of principle.

GSA has the statutory responsibility to provide space for the judiciary. We have made our requirements known to them. We do not know all of the factors that they have to take into account in deciding with the Office of Management and Budget which projects come to the Congress and which projects do not.

Ms. NORTON. Couldn't you ask them? Wouldn't they tell you?

Mr. THACKER. Having been in that position for six months dealing with the Office of Management and Budget, I am not sure they know.

Ms. NORTON. Not sure who knows?

Mr. THACKER. All the factors that OMB takes into account when they make decisions about which projects are going to be allowed to come to the Congress and which are not.

I believe the judiciary—

Ms. NORTON. Excuse me. I want to make sure I understand. So OMB prioritizes; you don't?

Mr. THACKER. OMB has its own prioritizing of projects that go into the President's budget, yes.

Ms. NORTON. Does it prioritize among court projects?

Mr. THACKER. Yes. I mean not singling us out, but in a sense our projects are among all the projects that GSA presents to them.

Ms. NORTON. As the government's developer, don't you think the OMB would be aided by the buildup of expertise in the GSA which could—

Mr. THACKER. Oh, certainly, yes, ma'am, and do take that in consideration. Again, GSA does prioritize projects.

Ms. NORTON. But not courts.

Mr. THACKER. Oh, yes. When I was there and served as chairman of the—

Ms. NORTON. OMB or GSA, which?

Mr. THACKER. Both. Both.

Ms. NORTON. I thought your first answer was that you did not prioritize and that happened at the OMB.

Mr. THACKER. I am sorry, let me be clear. The judiciary has not, on principle, prioritized its requirements to GSA.

Ms. NORTON. That is exactly what they said, and they said that was the role they expected the GSA to play.

Mr. THACKER. That is correct and, in fact, GSA does prioritize all of the projects that it has before it, both from the judiciary and from the executive branch agencies.

Ms. NORTON. Mr. Thacker, does the GSA take the projects submitted to it—I keep thinking I am asking the same question and not getting an answer. It could be me. GSA has a set of projects submitted to it by the courts in a given year.

Mr. THACKER. Yes.

Ms. NORTON. Which the courts have not prioritized?

Mr. THACKER. That is correct.

Ms. NORTON. Does it then look at those projects and itself prioritize?

Mr. THACKER. Yes.

Ms. NORTON. And how do you do that?

Mr. THACKER. That prioritizing is then in turn also looked at by the Office of Management and Budget and may be changed by the Office of Management and Budget.

Ms. NORTON. What criteria do you use to prioritize?

Mr. THACKER. In GSA?

Ms. NORTON. Yes.

Mr. THACKER. I will tell you as I understand it. You may certainly want to ask GSA to explain how they do it in more detail. But I think essentially GSA looks at timing; that is projects where there is an immediate need for some action to be taken. They then look at how likely they are able, how likely it would be to find such space on the open market; that is trying to decide what has to be built and what could be acquired by lease or some other means on the open market.

And I am sure there are many other factors that they take into consideration in reaching a specific decision, but—

Mr. TRAFICANT. Would the gentlewoman yield?

Ms. NORTON. Yes, Mr. Chairman.

Mr. TRAFICANT. Would you perhaps give me an opportunity to make a few comments and spend some time here and then I will go vote?

Mr. Thacker, I don't hold you responsible at all. I hold the Congress of the United States. We have some problems. Ms. Norton has some specific questions. I am going to go vote. She will sit in the Chair, she will get a chance to ask those questions. I have complete confidence in what she is doing and attempting to do, but I want to make it clear that I believe that you are trying, and many of the things you have done are very good.

And I look at it from my own perspective. One thing the GAO did do is confirm to me what I really believed. The northern district of Ohio had people running all over going to courts. There needed to be more Federal court activity, but all we were doing was looking at it in those specific areas. So, as a result, I moved very hard where Youngstown is known to be, and is a seat in the northern district, to establish that Federal presence there so an awful lot of people, a mass of population, didn't have to get on the freeway or stay overnight and hustle up there to Cleveland, battle snow, battle traffic.

And everybody thought it was just a personal thing. It really was not. I think there are some things being done in Cleveland that now could be done in Youngstown, and I think we should be saving money in accomplishing the goals that GAO has shown. But the truth is, it is not you, in my opinion and in my experience. It has been a lot of politics and there is a lot of tugs and pulls. I pledge to try to work those things out.

Now, there is no way anybody can guarantee that to you, but I think OMB all has a piece of responsibility. Everybody has a piece of it, and you have to worry about judges, like Mr. Duncan says. The truth is, I want to try to work that out for you. I want your advice on how our committee can do that.

And while Mrs. Norton grills you and roasts you, you have to accept it because you get the biggest pay in that particular area, sir, and that is unfortunate, but I think that it is important that that be placed on the record.

I will also have some specific questions that I would like answered in detail. Not to hurt anybody, just to understand. And I also would like to know in those areas particularly addressed, if you don't get a specific question on it, how the GAO report can be incorporated into some of the things you are doing? Where you find some legitimate differences and how you can incorporate their statistical data and factual submission to help us all do this a little better.

Many times we get these reports and these reports get filed and they are not necessarily followed through with the types of programming that should be affected by this analysis. It costs us money to do this. We want to utilize what they say, and we want you to help us formulate the types of things we can do in regard to the things I talked about.

So I will turn the Chair over to Mrs. Norton, and I am going to go vote, and I have an amendment coming up on the Floor, so I look forward to meeting with you in the future as well.

She is actually very fair. Don't worry, she will be all right.

Mr. THACKER. I always enjoy Ms. Norton's questions. She asks very good ones.

Ms. NORTON [presiding]. No, no, Mr. Chairman, I will ask my questions from here. No one else can fill your shoes, much less your chair.

Just to clarify for the record, this Member, as a result of action taken in the House this year, does have the privilege of voting on the House Floor and the Committee of the Whole. However, this is a conference report in the House, so it is the misfortune of the District of Columbia and the good fortune of the Members who don't have to wait for 15 minutes or more while others go to vote, and I will simply complete the questions that I would have asked and we will adjourn the hearing.

Mr. Thacker, you, again, as you would have it, have the fortune or the misfortune of having been both at the GSA and with the courts. I think it is the great good fortune of the courts because it should enable whatever improvements may be necessary to be put in place so much sooner, and I would expect, very frankly, more carryover to the courts from the GSA than we have seen.

The GSA deals in a very professional disciplined way with Federal agencies. I appreciate the difference with the judicial branch of government, but we need to know the kind of help you need to make the courts really readjust from 200 years of operation. It is very difficult for another branch to do that. It should not be coerced. It should be done with delicacy and with great respect for the court.

The kinds of questions this committee has which go largely to cost, for example, involve a courthouse in 1990 which cost \$350,000 while in 1993 the cost of another new courthouse had escalated to \$2.5 million. Can you explain why the cost of constructing a new courthouse has risen so dramatically?

Mr. THACKER. I am not sure, Mrs. Norton, that it has. That is something I have not really looked at. Perhaps we could go back and look at some of the construction costs of court space. There was not a lot built during a 10-year or 15-year period. There were courthouse spaces built in Federal buildings. I would be very happy to do that.

I could say that when we were working with cost consultants on the development of the U.S. Courts Design Guide, one of the questions that we asked the cost consultants was is there anything we are doing with these space standards that will substantially affect the cost of construction of a Federal courthouse, other than perhaps making some of the spaces larger? The per square foot cost; is that going to be the same?

And the reaction of our cost consultants was that there is not anything that you are doing that is going to affect the per square foot construction cost.

Ms. NORTON. I cite this one example. We need to compare the rise in cost of court construction with the rise of construction in other agencies. So it would be useful—

Mr. THACKER. That is an interesting question. Be happy to do that.

Ms. NORTON. Then we can compare it to, I am sure, figures already on hand at GSA.

Who is it that approves the final space plan for a court?

Mr. THACKER. The space plan, again, may be an accumulation of a number of short-term needs and long-term needs. The space plan is assigned by the chief judge of the district as signifying that the plan is the consensus of the court, of members of the court, the units of the court.

When a specific project, however, is requested of GSA, a specific requirement for expansion space, is sent to GSA, that requirement is approved by the Judicial Conference, or the judicial council in which that particular court sits.

For example, if the court in the central district of California, Los Angeles, wanted to request expansion space of GSA, that request would be reviewed by the judicial council of the 9th Circuit before we send it to GSA. And they review it both for conformance to the designs, U.S. courts design standards, and to need, that is, is it reasonable to expect that this court is going to get the staff that would necessitate additional space. Those kinds of questions are asked.

I believe that for the most part the judicial councils are being quite rigorous in their examinations.

Ms. NORTON. Has there ever been an occasion when the AOC has disputed a final space plan?

Mr. THACKER. No, because we have our input into that process when the plan is being developed, so any of our disputes would be raised as the plan is being developed. But certainly the final decision is with the local court, and we think that is appropriate. Those are the people that are on site and should have the best knowledge about how that court is functioning and the most capability to make changes in how the court is functioning if there can be some efficiencies gained by doing something.

So our input is at that point, and we would not dispute it once it was done, because, again, it represents a consensus of the court about what is going to happen in that district.

Ms. NORTON. Here, Mr. Thacker, is where I think some of your GSA experience might have carried over. The opulence, as it is sometimes described, in some courts at least, would never be tolerated by GSA in government buildings: high ceilings, personal accoutrements for the judges, those kinds of things. The GSA would laugh any Federal agency out of its offices that began to suggest that, and I am wondering how that got past you, Mr. Thacker.

Mr. THACKER. If I may suggest a couple of things. One, we would be very pleased if this subcommittee would be willing to hold a hearing on the court design standards. I think it is essential that you not only have confidence in this committee about how needs or requirements are developed but also the basis on which the requirements are developed, that is the space standards that are used. And we would be very happy if you wanted to do it informally as well, but if you wanted to have a hearing of the subcommittee in which those things were discussed, we would be very glad to do that.

I think if—Ross, do we have a comparison, if we have just one second, of space sizes? It is only one aspect, certainly, but—of space sizes. Well, that is not very good. How about just taking it up, if you would, closer. We will have a handout of this, I just didn't know it would come up specifically but thought it might.

We find that the space sizes for what we think are somewhat equivalent staff within the judiciary are very similar to the executive branch, in some instances, perhaps even a little bit lower.

In the case of courtrooms, we developed the size of courtrooms when we were doing the design standards in a functional way, that is, we defined for our architectural consultants the number of people usually in the courtroom, either in the well of the court or spectators, took into consideration the size of panels that were called from which injuries were selected, sort of the high average of the number of litigants in Federal cases, and developed a 2,200 to 2,400 square foot. And, again, we settled on the high number, 2,400 square feet, approximately 60 by 40, for a trial district trial courtroom.

Now, the architects then, with an office, or with a space that size, with the judge's bench, say, 21 inches off the floor, the first, second level of the jury box 14 inches off the floor, suggested that there was a proportion that would be appropriate for a room that size, a space that size, and that it was 14 to 18 feet. Not very exact, I agree. We settled on sort of a middle range, 16 feet, for a ceiling height. And that seems to conform to building modules.

Ms. NORTON. So you are saying that there is nothing at all extravagant about the way courthouses are built and that there really are not any economies to be made in that way?

Mr. THACKER. I think we are looking at some economies now with the private sector group that is working with us, and I don't want to unfairly characterize what they are telling us so far, but, for the most part, they are not suggesting that the design standards from the courts are extravagant.

We do use a lot of permanent materials in the building. Like that, for example in the public spaces, terrazzo or granite on the floors of the public areas rather than carpeting, but we are in the buildings for a long time. We have some sample finishes as well but we did not bring those. We would be happy to give you those as well.

I think what may be considered some grand spaces in courthouses are not necessarily expensive spaces or overly expensive spaces or represent a great deal of the——

Ms. NORTON. I would like you to submit this chart to us so that we can have it in chart form so the committee can look at it.

[The information follows:]

Comparative Space Standards

I. Office Space

Position	Executive Branch Standard (Square Feet)	Comparable Judiciary Space Standard (Square Feet)
Senior Executive Service	300	300 (Clerk of Court)
Supervisory GS-14/15	225	250 (Chief Deputy Clerk)
Staff Offices GS-14/15	150	150 (Probation Officers, etc.)
Staff Offices GS-12/13	100	150 (Pro Se Law Clerks)
Supervisory GS-12/13	150	150 (Admin. Services Chief)
Staff Spaces GS-7/11	75	70 Docketing Clerks
Supervisory GS-7/11	100	120 Docketing Work Leaders

II. Specific Comparison with U.S. Attorney Standards

U.S. Attorney (finishes can be panelling and chair rail)	300	300 (Clerk of Court) (finish is vinyl wall covering)
Toilet	30	50
Private Conference Room	300	None
U.S. Attorney Secretary	150	150 Executive Secretary
Chief Assistant	225	250 Chief Deputy Clerk
Supervisory Assistants/Exec. Admin. Officer	200	200
Assistant U.S. Attorneys	180	150-200 150 for probation officers 200 for Asst. FPDs
Open office Workstations	80	70

Ms. NORTON. As a person who headed a Federal agency, and had a private toilet, I have to assume that a judge is the functional equivalent of a cabinet officer or the head of the agency, because all these Federal judges rank private toilets.

I am here to tell you that they are not the equivalent of a cabinet officer or head of an agency.

I would dispute this on a number of levels, but I believe, Mr. Thacker, you and this committee are going to have some difficulty if you attempt to justify the trappings that surround Federal courts. We are not asking for carpets rather than marble, but I will tell you we have it in my district right here on Massachusetts Avenue. As you look to the right, facing Union Station, you will see one of the most beautiful buildings that has been put up, it is an office, an Administrative Office of Courts. As I understand it, it does not have courtrooms.

Mr. THACKER. No.

Ms. NORTON. But I have to tell you, as I go by that building, and this was something I noticed before this issue ever came up before this committee, I cannot help but notice—I think it is only two stories. I forget how many stories.

Mr. THACKER. Seven stories.

Ms. NORTON. But you can see into the offices because at night they keep the lights on. These are extraordinary offices. The ceilings are high.

By the way, I am an art lover. I do not say there should not be any architectural innovations in Federal buildings. On the contrary. So the wonderful tree that is in the entrance, I will not object to that. But as I look into those buildings where administrators and staff sit, in my mind's eye I keep subdividing that building every time I go past it.

Mr. THACKER. Well, I think you picked a wonderful example of how a beautiful building, a magnificent building, and a very high quality building, and a building that——

Ms. NORTON. Not a trial is going to be held there. No respect for the courts is necessary.

Mr. THACKER. But a building that completes a design concept that Mr. Birnam had in designing the Old Post Office and the Union Station. A wonderful example I think of how a high quality significant building in a community like Washington does not have to cost a lot of money.

The building cost of constructing that building was \$106 a square foot. GSA, in Washington—now, Washington for, I guess for general purpose office space, built out about \$114 per square foot.

Ms. NORTON. Is it all occupied? Is there room to expand?

Mr. THACKER. In fact, there is room to expand. The spaces you see on the first floor, which do have high ceilings, the rest of the building does not, because of the Palladian style windows which replicate the design in Union Station, was to have been occupied by a staff of the Architect of the Capitol. We understand recently that he does not plan to move into the space. So we are in the process of, or he is in the process of working with us on how to expand in the building.

Ms. NORTON. But my point, Mr. Thacker, is not that I am prepared at this moment to talk about the space allocated to individ-

ual employees, although that is something we would want to look very closely at for comparison purposes, but my point is that even given the nature of a courthouse, the standards that are being applied suggest that courts and judges are living a lot higher on the hog than others who make their living entirely from the taxpayers.

We would not wish to bring the judges in the courts to some of the levels we have seen of Federal agencies around this town. But we are of the considered opinion, based on no small amount of evidence, that when you go to build a courthouse, you use standards and allow trappings that you would not allow for executives of equal rank in the Federal system, including people whose oversight is of billions of dollars, who carry the prestige of the United States behind them, and who meet with foreign governments. We believe that the judges should be put at the rank and level with others like themselves, bearing in mind that these are, after all, courts.

I just want to suggest to you that it is that that is our major concern and that it will be hard for this committee to justify that.

GAO's report suggests that subjectivity occurs in the AOC's long-range planning process. Is that your view as well?

Mr. THACKER. Yes, and it is something that we did very consciously, for a number of reasons. First, we thought it important that the people who are closest to the ground in the process have an opportunity to have input into decisions that are going to be made about how their—

Ms. NORTON. Do you think each judge needs a personal toilet?

Mr. THACKER. Yes, for a number of reasons.

Ms. NORTON. Why? Why can't all the judges go to a toilet for all the judges?

Mr. THACKER. That is a possibility. I think for a number of reasons, as you pointed out, heads of departments and agencies, or people in certain rank and judges, who are constitutional officers, are afforded that perquisite. I think there are some sound administrative and security reasons for judges to have toilet facilities separate from the general public in a building.

Ms. NORTON. How about kitchens? Do they do a lot of cooking when they are off the bench?

Mr. THACKER. We don't provide any kitchens because of the—we do provide coffee bars or a sink with a space for a microwave or a little refrigerator, but no kitchens.

Ms. NORTON. It is right in the design guidelines, Mr. Thacker. There are some courts that have kitchens.

Mr. THACKER. I think the term is galley. And again it is intended, I think the square footage is 40 square feet or something. It is plumbed for—it has a sink but it does not have a cooking surface, unless they buy a microwave to put in it or a small refrigerator. But they are not kitchens in the sense of what you might have in a head of an executive agency's private dining room or something like that.

Ms. NORTON. Mr. Duncan wanted this question asked. Should the committee rely on a process that the GAO claims is flawed from the start by a lack of professional input?

Mr. THACKER. Well, I think there is a great deal of professional input. Both when the initial space plans are developed, there is input from both program specialists, that is the court managers

who are involved, U.S. attorneys staff, U.S. Trustees, U.S. Marshals, and from space management specialists, space planning specialists from our staff and from——

Ms. NORTON. When we say "professional input", we are not talking about the marshals and the judges, we are talking about people who are in the business of space management.

Mr. THACKER. Yes. Then GSA participates in this planning process, people from our staff who are space planning specialists, or are architects and designers participate in the development both of the plans themselves.

Ms. NORTON. Who brings the discipline to the project? If you set a bunch of clients loose and you set a bunch of architects who want to please them loose, I am not sure where in this mix you will get anybody who knows how to say no.

Mr. THACKER. Well, in dealing with judges, some of the judges on our committee say that trying to manage a group of Federal judges is like trying to herd cats. It is not the easiest thing in the world to do. They operate by consensus.

So we have tried to build, or they have tried to build a check and balance by having agreed-to space standards that are applied. Those space standards are approved by the Judicial Conference of the United States and are enforced by the judicial councils when they review.

Certainly you could argue with some of the space standards, and as I say, we would be very happy to go over them with you and explain why we did some one way or another, but at least there are now written space standards that the judiciary says are adequate to provide the needs of the judiciary.

Ms. NORTON. If the long-range planning process is changed, it will have to go to the Judicial Conference?

Mr. THACKER. Actually not. The Judicial Conference directed us, the administrative office, to develop the procedures.

Ms. NORTON. I am talking about the final plans. Is there a sign-off by the Judicial Conference?

Mr. THACKER. No. Only at the Judicial Council level. The Judicial Conference does not vote on every——

Ms. NORTON. And the Judicial Council is?

Mr. THACKER. Is composed of, gee, I have to get you this specifically, it is composed of both the Circuit Judges within the circuit and representative District Court Judges from within the circuit.

Ms. NORTON. So, in other words, another level of Federal judges?

Mr. THACKER. Peer review; yes, ma'am.

Ms. NORTON. Similar to peer review by cabinet officers when you go to change their space requirements?

Mr. THACKER. No, those are usually not peer reviewed at all.

Ms. NORTON. They just do what they want to do?

Mr. THACKER. GSA, I think, usually tries to give some preference to the wishes of cabinet officers; yes, ma'am.

Ms. NORTON. We have a situation in our city where the mayor moved into a new building and it has been the subject of horrendous controversy ever since. If these things are exposed to the public, we get what we get in the District of Columbia. The mayor's fireplaces and marble floors and high ceilings are on the television every other week because the people just cannot let it go.

I would hate to see this happen with the Federal courts, and this is why I am trying to drive this point home. If an investigative reporter wants to go into the inside of a court, the court can try to stop him. Ultimately he can get in there and he can traipse through there in the way that Channel 4 traipsed through the Mayor's new digs here in Washington.

And when they do that to our Mayor, the people have a go at her and can decide if it is serious enough. If you do that to Federal judges, you have an effect upon the respect that people hold for them and the quality of justice.

That is why this is serious for this member of the bar. If Federal judges don't understand it because they have not had the same kind of oversight that a political figure has, then they better understand that nobody is immune from that kind of oversight today when the press is steadily looking for indications of waste.

Is it Prime Time Live that every week covers one building or the other? Some of these news shows, as you look at them, especially this committee, which knows some of the facts, you say, they really didn't get that right, but they got enough of it right to get somebody really upset and to bring members and others down upon the Congress.

Imagine if we allow that to happen to the courts. There, I think, we have a serious problem. Here we can try to do the best we can, slough off what we know is less than accurate muckraking; try to do better with legitimate issues. But once the charge is laid on the charge will not be laid at the doorstep of the GSA. The charge will be laid at the doorstep of circuit judges, district judges. They will be called by name and they will bring disrespect on their courts.

I hope you take that message back to the Judicial Conference and tell them you heard it from this committee, because I know I speak for every member of this committee, and that it is better to hear it from this committee than to hear it from the press, and that rationalizations like the chart you showed us will never do, even if there is a single courthouse that appears open you went to the press at a time when we have not been able to provide the bare necessities for many Americans.

Take it back. Please take it back before it is taken back in a way that courts should never have to hear.

Mr. THACKER. I do understand and, in fact, I have heard, not I must admit, as eloquently expressed as you have just done, but I have heard similar discussions among judges. They are concerned about the very same issues that you just described.

Ms. NORTON. I have a number of other questions, but I am going to end this hearing on that very serious note, because I take it very seriously. I will ask staff for other questions, questions that I think the committee really needs very specific answers to, but I am going to end this hearing on that note.

And I would ask you, Mr. Thacker, and the AOC officials and the judicial conferees themselves, if you will adopt a proactive, dare I say, reinventing government approach to the courts, as we are requiring the agencies to do. We want it to come from you. We can give the AOC and the GSA a lot of help through a statute. I am seriously considering that.

I believe it is true that a judge brings a set of such gravitis to the table that it is difficult, but one thing judges understand are statutes. They construe them every day. And if we write into law the discipline that we will hold them to, they will understand it.

You ought to tell them that the committee is seriously considering writing standards in the law that would not leave AOC staff or GSA staff in the position of executive agency officials who feel, understandably, not entirely equal to judges who may have other preferences.

I very much appreciate the testimony. It has been very useful to us today and this hearing is adjourned.

Mr. THACKER. Thank you.

[Whereupon, at 12:20 p.m., the subcommittee was adjourned.]

[Subsequent to the hearing, the following was received from Mr. Thacker:]

Federal Judiciary Long-Range Facilities Planning
Questions for the Record

1. Question: In the period from 1989 to the present, was there an occasion when any of the 94 districts had its current staff size reduced as a result of application of AOC's Long-Range Planning procedure?

Answer: No. However, the long range planning process is not used to derive staffing allocations. The Judiciary's workload measurement staffing formulae for court units indicate that the Judiciary is understaffed by some 3,100 positions (15%) nationwide.

2. Question: Would you explain what a baseline is and how the AOC defines it?

Answer: The baseline should be the appropriate amount of space a court would be authorized to use in support of its mission. We define the baseline to include two specific components: (1) the current actual space the court resides in at the time the Long Range Plan is conducted and (2) the critical functional space not available to the court (i.e., deficits) because of facility overcrowding, structural problems, etc. (e.g., the size or shape of the space or column obstructions).

The deficits for each court are identified, item-by-item, in the court's Long Range Planning document. The functional spaces typically found lacking are: jury assembly rooms, attorney witness rooms, holding cells for prisoners, space for active caseload files, etc. We list shortages in office spaces and special rooms such as drug testing rooms and computer rooms. We also identify courtrooms that are undersized according to current guidelines in the event that a new facility is needed in the future so that these functional deficiencies can be corrected. Undersized courtrooms in and of themselves do not generally drive the need for a new facility.

GAO assumes that because a court is currently operating in its present space, it could continue to do so without regard to the serious functional space shortages that led us to develop the Long Range Plan for a specific site. Thus, one of the differences in our two positions is that the GAO report discounts the Judiciary's space totals by an amount equivalent to our 10-year, nationwide operational space shortages. GAO would not include in the baseline any adjustment for serious operational shortages.

3. Question: In 1988, GSA and the AOC entered into a memorandum of understanding (MOU) which at that time would have been the basis for a long-range space planning process for the courts. During questions at this year's Subcommittee Capital Improvement Program Hearing, the Subcommittee raised the possibility of resurrecting the MOU. Has the AOC contemplated requesting GSA join with the AOC to reinstate the MOU?

Answer: The MOU signed by former GSA Administrator Golden and Administrative Office Director Mecham in 1988 contains some elements that probably have been overtaken by events. The Judiciary, however, would be pleased to work with the Subcommittee members and GSA to implement Vice President Gore's National Performance Review recommendations as they relate to real property administration. Perhaps the Judiciary might serve as a "reinvention client laboratory" model to be followed by other Federal organizations.

4. Question: If significant changes were to be made to the long-range planning process, would that decision come from the AO or the Judicial Conference?

Answer: When the Judicial Conference approved the creation of a long range facilities planning process in March 1988, it gave the Space and Facilities Committee of the Judicial Conference responsibility for development of the process. Significant changes to the process would be implemented with the consent of the Committee.

5. Question: When the AOC decided to make changes in the way space was allocated, did it go back and revise district plans that had already been completed?

Answer: In every case where a building has been proposed as a result of the Long Range Plan evaluations, the next stage in the planning development process requires complete reevaluation of the earlier planning presentation. The Long Range Planning process, in evaluating all facilities within a district, attempts to identify site specific locations where an action request is initiated. In every case, the summary data for each site has been completely revised for the preparation of a prospectus development study which forms the substantive official proposal through the GSA-OMB-Congressional funding process. We do this on a project-by-project basis.

We did not always revise the entire district plan at that time, although the courts do provide new documentation amending prior assumptions contained within the original district Long Range Plans when necessary. We do have a separate schedule to update the district plans. It is based

on a two-year cycle from the date the first Long Range Plan was conducted.

6. **Question:** Do you believe the GAO study is a constructive, good faith evaluation of the AOC long-range planning process?

Answer: As stated at the hearing, the Judiciary does not agree with a number of assumptions the General Accounting Office used to determine that the planning process is not statistically reliable. GAO conclusions that courts are overstaffed and have too much space are not valid. The Judiciary is understaffed by 3,100 positions based on current work measurement criteria. The methodology employed by GAO to determine that some districts have too much space did not take into account the fact that the Judiciary occupies more than one building in a judicial district. GAO assumed that the Judiciary could realize the economies inherent in being collocated in one building. In fact the Judiciary occupies space in over 730 facilities nationwide.

Even using the Judiciary's methodology, the results of the long range facilities plans fall within the acceptable confidence intervals calculated by GAO. For these reasons, the Judiciary believes that the GAO report evaluating the AOC long range planning process reaches conclusions that are not supported by the facts.

7. **Question:** Should a district's caseload be treated the same as all other district caseloads or individualized?

Answer: The caseload for each district is compiled by the Administrative Office's Statistics staff from individual reports submitted annually by the clerk of court. Thus, the prior 40-year caseload information is individualized and is a matter of record. In estimating future caseload patterns we generally do not use straight line projections (linear projects) as do most State courts and many other planning groups. These patterns lead to much higher caseload growth than court managers are willing to assume. For that reason, we have used the experience we have gained with courts of similar size, with typically the same general caseload volume, and with similar demographic profiles as a starting point for developing initial caseload materials for the courts to use in on-site Long Range Plan work sessions. Court managers also provide input into the process. The Judiciary believes strongly that the input of on-site individual offices and court managers' experience is the strongest feature of our Long Range Plan forecasts. The subjective part of the process is discussed in greater detail below.

8. Question: GAO's report asserts that subjectivity occurs in the AO's Long-Range Planning Process. Please comment.

The "subjectivity" to which GAO objects is the involvement of court managers in shaping the assumptions about future caseload. At the same time, GAO acknowledges that there are numerous exogenous variables and changes in policy that need to be accounted for. GAO believes that we could reproduce these complexities solely through centrally-developed computer generated estimates. Our premise is that this is impossible.

9. Question: According to the GAO report, local representatives of districts decide the critical current staff needs and future staff needs (deficits). Wouldn't this planning method be more accurate and less subjective if statistical methods were applied to verify the local input or at least a further review done?

Statistical methods are applied to verify local input. During the on-site planning sessions, we provide a "ratio analysis" that compares the specific "subjective" assumptions court managers have made to the computer generated projections. This statistical check allows managers the opportunity to explain why the local district's characteristics vary from the computer-generated model.

10. Question: What expertise does the AOC or the U.S. Court system possess to support its desire to have its own independent authority to acquire court space?

Answer: The Judiciary has a staff of 29 architects, engineers, professional space managers and financial staffs that can support independent authority to acquire court space. The Judiciary also has a number of architectural firms under contract to assist it with space acquisition. Independent authorities would allow us to take advantage of the marketplace and not rely solely on GSA. By taking advantage of our contract resources, it will not be necessary to create an organization similar to GSA.

Architects, engineers, and project managers are also employed throughout the country in circuit executives' offices and in other court offices.

11. Question: Congress has directed GSA to only use the AOC's 10-year planning projections believing the 20- and 30-year projections are not reliable. Consequently, for what purpose does the AOC continue to produce 20 and 30 year planning projections?

Answer: We think it is unfortunate that GSA's time horizon is limited to 10 years. It takes on average 7-10 years from the time a new building proposal is initiated to the time a building is occupied. Thus, a ten year planning horizon means that it is highly probable the courts will be out of space, or nearly out of space, soon after we occupy a facility.

We believe a thirty-year time forecast can be useful for several reasons. For example, it allows us to predict the site size that would be needed if our thirty year predictions were to be realized and we would need to add on to the original building in a subsequent project. It also guides the design of the initial phase of a several-phase construction project, so that the structural heights, security, elevators and utility conduits can be placed in a way that will facilitate future build-out when or if it is needed.

12. **Question:** Is the Design Guide's space add-ons for circulation and contingencies such as hallways or storage space appropriate, something every Federal agency should include?

Answer: The circulation factors and contingencies for hallways and storage space we use are specific to function. The 20 percent circulation factor in general office areas should be similar to needs for other agencies. "Add-on" factors in other areas vary. Particular file needs, storage needs, and special public areas need to relate to the specific mission of the occupant of the space. For example, the public waiting areas in a Social Security or Internal Revenue Service District Office are areas where seating and queuing are very controlled. These spaces differ significantly from the public gathering area that must be provided outside a District or Bankruptcy Courtroom.

13. **Question:** Why isn't the addition for these factors (circulation and add-ons) applied to court personnel such as U.S. Attorneys?

Answer: The Court has no authority over, or responsibility for, these executive agency components; however, we generally plan to have these components in the courthouse for effectiveness and efficiency. Thus, we need an estimate of this requirement in a general way. Our working understanding with the affected agencies and GSA is that they will follow-up with the executive agency's central office space management staffs to obtain official space requests. Generally, our plans, as applied to individual projects, have been endorsed.

14. **Question:** Are there recommendations in the GAO report that the AOC supports and does AOC plan to implement them?

Answer: As stated at the hearing, the Judiciary agrees that the plans should be consistently updated. The GAO evaluation team had been advised that we are updating plans, but failed to recognize our efforts prior to publishing the report. The Judiciary is willing to address the GAO recommendation that caseload complexity be more fully addressed in the planning process, even though mechanisms are built-in to the process to address case complexity. The Judiciary is not convinced that accounting for case complexity in a more rigorous way will improve the process significantly.

15. **Question:** Which GAO recommendations do you disagree with and why?

Answer: The Judiciary does not agree with the GAO finding that the planning process can be reduced to a statistically pure procedure that should not take into account assumptions made by local court officials. Only by incorporating input from on-site staffs can the physical shortcomings of existing facilities be addressed. As stated previously, by not taking into account current space configurations in existing facilities, assuming that current staffing is equal to actual need, and assuming that all offices for each district are located in one facility, GAO's conclusion that the Judiciary's planning process generally over-estimates or under-estimates the amount of space needed in a given district is not valid.

16. **Question:** Prior to 1991, deficits were 19 percent of district baselines, while in September of 1992, deficits had risen to become 52.1 percent of baselines. Could you account for this dramatic change?

Answer: In general, according to the GAO report at page 67, the average space deficit of all long range plans GAO studied was 23.98 percent. This correlates directly with our analyses that generally deficits are approximately 25 percent of baselines.

The comment that baselines account for 52.1 percent of baselines refers, we believe, to one of the two sites the GAO staff visited in the Eastern District of Michigan. We recommended that the GAO staff visit this site with us because we knew the district, and the bankruptcy court in particular, had critical space shortages. A space shortage of over 30,000 square feet was identified during the long range planning session. The housing situation in this district is so critical that the Bankruptcy Court was

working two shifts and had split part of its staff to a location across the street from the main facility.

17. **Question:** The GAO Report asserts on page 36 that the AOC baseline calculations assumed current staff were needed, even if a district's caseload had decreased. Is this true?

Answer: It is true that the "AOC baseline calculations" assumed current staff were needed when in some cases, the district's caseload had decreased for the current year. But in examining the patterns of 40 years of prior caseload data for civil, criminal, bankruptcy and persons under supervision, several observations are clear. Criminal caseloads have a "camelback" tendency (periodic ups and downs) whereas civil caseloads are steadier and more predictable.

As described above, when workload measurement staffing formulae are applied to caseload, they show the Judiciary is staffed, on the average, at only 85 percent of required strength. GAO's comments ignored staff positions authorized by staffing formula, but unfilled at present because of budget shortfalls. Using forty years of caseload data helps to "smooth out" temporary changes in staffing. Therefore, the Judiciary believes that its baseline is appropriate.

18. **Question:** Does the AOC presently have a method for verifying deficits?

Answer: Yes. The Long Range Planning process, and the follow-up steps taken to document long range plans conducted on-site, provide an opportunity to confirm space shortages (deficits) described by court officials. All claims of space shortage are explicitly listed item-by-item, and are included in the final long range planning document.

Furthermore, the technical team working on-site has the opportunity to confirm the need for all shortages claimed. The team does not visit every building physically, but every building is discussed in detail. About 200 buildings of 500 buildings evaluated have been visited, however. Direct discussion with GSA building and area managers, and GSA real estate officials provide confirmation of overcrowded situations.

19. **Question:** Could you explain what the "Any court System" is and the benefits that may be derived from it?

Answer: "Anycourt" is a computer model used to develop the "right size" of a facility from a "zero-base." The specific advantage of the "Anycourt model" is that it provides a clear and detailed listing of space according to U.S. Courts

Design Guide standards at a pre-design phase for a new building project. By using the model, we have eliminated the need to use listings of deficits to describe our total space requirements.

20. **Question:** What methodology does AOC use to project future caseloads?

Answer: The AOC uses two regression formulae to perform the initial projections for the long range facility planning process: a linear and a quadratic formula. The linear formula is used to project the criminal filings and the number of persons under supervision. The quadratic formula is used in forecasting bankruptcy and civil filings. These two formulae are used to produce initial caseload forecasts. These initial forecasts are mailed to each District Planning Team approximately one month prior to conducting a 3-day planning workshop. The judges and senior court officials at each district review the initial figures, and, during the planning workshop, have the opportunity to make adjustments to the initial forecasts based upon their best judgement and experiences as court managers. These experiences take into account the specific situations at each individual court location and are supported by detailed figures and statistics. The assumptions used in making any changes to the initial forecasts are documented in writing by the manager of each court component.

21. **Question:** Who is the AOC's consultant, what is his background and how long has he been a consultant?

Answer: The AOC's consultant is Mr. Keith T. Fentress of Fentress, Incorporated, a management consulting firm that specializes in research, analysis, and planning. Mr. Fentress has been a consultant to the AOC since April 1988. He has participated in the development and implementation of the long range facility planning process. In working with the AOC, he has planned for well over 600 court facilities throughout the nation. Mr. Fentress is currently in his last semester of course work towards a Ph.D. in policy at Virginia Polytechnic Institute and State University. He has specialized in two areas: advanced computer methodology and organizational development. Mr. Fentress holds an MA degree in Political Science and Public Administration with a concentration in social science research methods.

22. **Question:** Are the caseloads of agencies related to the courts, such as the U.S. Attorney's Office, available to the AOC?

Answer: We do not have available to us the caseloads of related agencies such as the U.S. Attorneys, the U.S.

Trustees and the U.S. Marshals Service. However, we do closely coordinate with these agencies before, during and after planning sessions. All on-site work sessions are preceded by mailings to the central office and local offices of each of these agencies. We ask that the agencies' central offices call local managers to provide guidance to them in preparation for the on-site working sessions. This has worked quite well for us so far. We have consistently been able to obtain input on caseload trends and staffing to the degree needed at this stage of planning. Later, where a specific building has been identified for pre-design detailing, GSA communicates directly with the central offices of the U.S. Attorney, the U.S. Trustee and the U.S. Marshals Service to obtain appropriate data.

23. Question: When the AOC uses its planning process to computer caseloads, does it weigh factors such as the complexity of the case or the length of trial? If not, why not?

Answer: We start our initial projections using raw, unweighted filings; but these projections are only useful as a starting point for detailed discussion on-site. We also present details about the numbers of defendants per case for the district, and census data on economics, demographics, unemployment, and other data about the specific characteristics of the district as reported in annual statistics reported to the Administrative Office by the district. Approximately one third of the districts reviewed have modified projected caseload trends based on current experience and specific assumptions they provide in letters compiled in final long range planning documents.

Currently, it takes the Administrative Office's Statistics Division about one month to produce a one year forecast of staffing using detailed weighting formulae and carefully examined current caseload experience. Since the initial effort of the long range planning work session is to identify those locations where potential projected growth may lead to outgrowing specific facilities, the Statistics Division advised us that our use of raw caseload as a starting point was acceptable.

This is not to imply that all of these issues (weighted caseload influences, complexity of trial, understaffing or overstaffing according to current staffing policy) are not addressed. We do discuss all of these issues, and ask the local managers to carefully document all assumptions about these and other relevant factors. As stated above, the assumptions are documented in the final long range plan. Our work sessions on-site, both with the staff and judges, provide thorough discussion of all factors which they

believe must be understood when justifying future staffing and space needs.

24. Question: Would the AOC be willing to meet and work with GAO and GSA in the interest of improving its long-range planning process?

Answer: The Judiciary is willing to work with GSA and the Subcommittee staff in the interest of reaching an agreement on acceptable planning assumptions and has advised the Subcommittee's staff of its willingness to do so.

25. Question: What if anything, do you feel is wrong with GAO's use of \$31 per square feet as the courts average cost for court space from 1988 to 1992?

Answer: The Judiciary fails to see the logic in the methodology used by GAO to derive a \$31 per square foot average cost and using that average cost to determine that the Government will be spending \$1.1 billion too much on courthouses over ten years. The Judiciary will never ask that a courthouse be built with empty space. Therefore, the \$1.1 billion that was derived by the \$31 per square foot average will never be spent by the Government.

In addition, the \$31 per square foot cost was derived by combining a number of factors that have no relationship to space rental costs or construction cost. The factors used combine capital costs with costs of operations. The cost of operating a building is about \$7.00 per square foot. The cost of constructing a courthouse is \$180 per square foot according to GSA benchmarks. Again, since GSA is not building space that will be vacant, GAO's assertion that the Government will spend \$1.1 billion more on courthouse space than it needs to is not relevant.

26. Question: On Page 4 of the report GAO criticizes the AOC planning process because its estimates of future space needs is unreliable because the methodology used to project caseloads was not statistically acceptable. Please comment.

Answer: Our process blends qualitative and quantitative data. The end result is not purely statistical, but the amalgamation of many inputs. Most of this, we believe, is not possible to reduce to pure statistical projection. Even though we start with statistical data (forecasts) and we modify this data on-site in accordance with input from experienced managers (documented in assumption letters in our final plans) the results of our plans have consistently fallen within an acceptable GAO confidence range (see page 51, GAO report).

If GAO were to inspect the facilities where serious space shortages have been identified, they would see the critical conditions being experienced by many of the courts we have evaluated.

27. **Question:** On Page 35 of the report GAO notes that the AOC starting in 1994 will update the plans for all 94 districts every 2 years. Is this information correct?

Answer: In fact, we already have started this process, as discussed elsewhere. We started in 1992, and told GAO that we had done so. To date, we are in various stages of revisiting twenty district plans. In addition, we have provided updated individual plans for as many as seventy single buildings to support GSA's prospectus development process.

28. **Question:** Is it the Chief Judge of a district that approves the final space plan? Has there ever been an occasion when the AOC has disputed a chief judge's decision?

Answer: The Administrative Office assists the chief judge of the district and his or her court with developing the district-wide space plans as mandated by the United States Judicial Conference. The on-site work session involves direct input of all officials of the court and the court-related agencies: U.S. Attorney, U.S. Trustee and U.S. Marshals Service. The team looks at evolving trends, local conditions and experience, space capacity for individual facilities, and staffing ratios to develop documentation for discussion with the district and bankruptcy chief judge and as many of the district and resident circuit judges as possible during the on-site work. When the final "close-out" session is held with the chief district judge, each building within the district is discussed in detail. Where the facility can accommodate future growth, the plan documents this decision. Where specific buildings cannot accommodate projected growth, recommendations are offered to provide relocating some components to delay the need to build new facilities as long as possible.

The long range planning document is not official until the chief district judge transmits it to the Administrative Office. Frequently, the chief judge, in transmitting his or her plan, directs the AO to proceed with one of the options developed in the planning document.

We have never had to "dispute a chief judge's decision" because the plan, with active input from the chief district judge, addresses all options that the courts, GSA and the AO could develop. Even though there have been some situations

where we might have chosen an option other than the one selected by a chief judge, we have never had a situation where the judge's choice was not an equally acceptable one.

29. **Question:** Would you explain to the Subcommittee the relationship between AOC and the U.S. Court System and the relationship between the AOC and the Judicial conference?

Answer: The Administrative Office of the United States Courts provides support services to the court system in the areas of personnel management, procurement, financial management and administrative services. The office obtains policy guidance from the Judicial Conference of the United States.

PREPARED STATEMENTS SUBMITTED BY WITNESSES

STATEMENT

BY

CONGRESSMAN RON DE LUGO, VIRGIN ISLANDS

BEFORE THE SUBCOMMITTEE ON PUBLIC BUILDINGS AND GROUNDS

OCTOBER 7, 1993

Mr. Chairman, I appreciate this opportunity to come before this subcommittee to discuss with you what has grown to become a very serious issue.

Plans for the national expansion of space for the U.S. Courts began with the best of intentions because of the heavy increase in caseload, but it has degenerated into something far less noble. I know that representatives from the General Accounting Office here today have brought along statisticians and other expert planners to elaborate on this how misguided the Courts plans have become. And while I am no scientist, I too have witnessed first-hand the string of events in my district in the U.S. Virgin Islands which show how out-of-hand the demands of the Courts have become.

Seven years ago I persuaded my colleagues on this Committee

of the importance of having a federal building on St. Croix. Federal agencies were scattered around the island paying high rents. I knew this building would be a sound investment for the federal government and would allow for better services to my constituents. As a result, Congress authorized the construction of a U.S. Court and Federal Building which was to be shared EQUALLY by the Courts and all of the federal agencies.

But...those Congressionally authorized plans were radically changed by the Courts and the General Services Administration.

The Courts unilaterally decided they needed more space, and proceeded to take over the entire building. Most of the federal agencies that were supposed to share the space were not informed of this change and those that did inquire were told that room was no longer available. To add insult to injury, court officials told disappointed agencies they could get space in the annex. The building was not even finished and the Courts were already filling the annex, so sure were they of getting anything they want from GSA and Congress.

Not only, Mr. Chairman, were the Courts allowed to take over the building, but the layout and proposed finishes showed an opulence that in these days of massive budget deficits was simply indefensible. For example, the law library, originally planned at 500 square feet, was increased to 5,130 square feet, a tenfold increase. The new plans called for the installment of elaborate

security devices such as private elevators for each judge. The luxuriousness of the Court's quarters was more befitting of kings, not the judges and staff whose priority should be upholding the laws of this country.

I contacted the General Services Administration to share my concerns, but GSA had already signed off on the changes. What the Courts wanted, they were going to get, and the federal government would continue to pay rent for other federal agencies while the Courts languished in luxury in a \$14 million building.

The problem did not stop there. Currently on St. Thomas the construction of an annex to the federal building on that island has been stalled because GSA, again in collaboration with the Courts, increased the originally authorized size of the building. Mr. Chairman, I stress this point because of the scarcity of land in downtown Charlotte Amalie where it is not possible to provide adequate parking to serve the building. This issue became such a problem that I was forced to offer a resolution which Congress approved requiring the GSA to put the new annex on hold until the building could be scaled down to the original plans to allow adequate parking.

As of yet, I have not been informed of any revised plans.

What I have received is a copy of the 1993 "Long Range Facility Plan of the District Court of the Virgin Islands" put

out by the Courts. This document maps out the Courts expansion plans in the Virgin Islands for the next thirty years. These plans include a new courthouse on the island of St. Thomas and an annex to the very recently completed federal building on St. Croix. The document states that these new buildings will bring relief to the serious and longstanding deficiencies the Courts now face in the Virgin Islands.

Mr. Chairman, I MUST STATE FOR THE RECORD that in January of 1994 the U.S. District Court in the Virgin Islands will lose jurisdiction to the Virgin Islands Territorial Court. Many criminal cases now heard in the District Court will be heard by the Territorial Court. This will mean a significant reduction in caseload for the District Court. The Dis'riict Court will no longer hear cases involving crimes for which penalties are 15 years or more in prison.

Mr. Chairman, the 80's are over. This country cannot afford such extravagance.

The Clinton Administration has come forward with a plan to control crime in this country. This plan does not include private elevators for judges and hugh, elaborate law libraries, but sorely needed money for law enforcement programs, programs which will place more cops on the streets and help steer at-risk children away from the life of crime which surrounds them every day. This, Mr. Chairman, is where the people's money should be

spent.

GSA officials--who will go unnamed--told me they were very hesitant to interfere with the prerogatives of the 3rd branch of government, even though they personally felt some of the Courts demands were unconscionable. In at least one case a judge threatened a GSA official with an arrest warrant when his air conditioner was not installed to his liking.

If GSA will not put curbs on these demands then Congress must. I would urge that strict monetary and space budgets be set on the Courts whenever new construction is approved.

United States General Accounting Office

GAO

Testimony

Before the Subcommittee on Public Buildings and Grounds
Committee on Public Works and Transportation
House of Representatives

For Release on Delivery
Expected at
9:00 a.m. EDT
Thursday
October 7, 1993

FEDERAL JUDICIARY
SPACE

Long-Range Planning Process
Needs Revision

Statement of Charles I. Patton
Associate Director
Federal Management Issues
General Government Division



FEDERAL JUDICIARY SPACE:
LONG-RANGE PLANNING PROCESS NEEDS REVISION

SUMMARY OF STATEMENT BY
CHARLES I. PATTON
ASSOCIATE DIRECTOR, FEDERAL MANAGEMENT
ISSUES

GAO's recently released report, Federal Judiciary Space: Long-Range Planning Process Needs Revision (GAO/GGD-93-132, Sept. 28, 1993), shows that the judiciary's process for projecting long-range space needs should be revised to produce results that are more accurate for Congress to use to authorize and fund judiciary projects. GAO identified three key problems that impaired the accuracy of the judiciary's projections of space needs: (1) all judicial districts were not treated consistently, (2) existing space plus unmet needs for authorized staff was accepted as a baseline without questioning whether it was appropriate in light of a district's current caseload, and (3) projection methods were not statistically acceptable and involved a high level of subjectivity.

The judiciary was one of the first government organizations to develop a planning process for anticipating long-range space needs. The basic assumption of the planning process was that caseloads should determine staff needs, which in effect should define space needs. GSA uses the 10-year space projections provided by the judiciary as the basis for requests to Congress for new construction and expansion of court space in existing facilities.

To assess the overall reliability of the judiciary's process, GAO developed 10-year projections of space needs for the judiciary's 94 districts using a standard acceptable statistical method. This analysis showed that the judiciary's projections of caseloads were higher in 76 districts and lower in the remaining 18 districts. Overall, the judiciary's projections were 16 percent higher than GAO's estimates. Using a GAO estimate of \$31 per square foot, which represented the judiciary's average cost of all court space for the period 1988 to 1992, the judiciary's projections represented an overestimate of approximately \$112 million annually or \$1.1 billion over a 10-year period.

GAO recognizes that it is difficult to project future space needs with precision. Space estimates are particularly challenging for the judiciary because there are numerous factors that cause changes in the workload, and therefore, space needs, which are beyond its control. However, with revisions to the process, the judiciary could obtain more reliable estimates of future space needs and thus provide a better basis for decisionmaking.

Mr. Chairman and Members of the Subcommittee:

We welcome this opportunity to discuss our recently released report that focuses on the judiciary's process for projecting its future space needs.¹ The report was prepared in response to the request of James M. Inhofe, ranking Minority Member of the Investigations and Oversight Subcommittee, Committee on Public Works and Transportation, who asked us to evaluate the reasonableness of the judiciary's process in projecting long-range space needs.

In 1988, to anticipate future space requirements, the Judicial Conference of the United States, the policymaking body of the judiciary, directed each of the 94 district courts to develop a long-range plan for its space needs. It also directed the Administrative Office of the U.S. Courts, the administrative body of the judiciary, to provide the districts with the necessary planning guidance. By establishing a long-range planning process, the judiciary became one of the first government organizations to develop a mechanism for anticipating space needs.

GSA uses the 10-year space projections provided by the judiciary as the basis for requests to Congress for new construction and expansion of court space in existing facilities.

¹Federal Judiciary Space: Long-Range Planning Process Needs Revision (GAO/GGD-93-132, Sept. 28, 1993).

To evaluate the judiciary's process and to determine whether the results produced were reasonable indicators of future space needs, we (1) determined whether the methods used by the judiciary were applied consistently from district to district, (2) assessed the baselines (current space needs) to which the judiciary added future space projections, and (3) evaluated the judiciary's approach to projecting long-term space needs. The basic assumption of the planning process was that caseloads should determine staff needs, which in effect should define space needs. In order to determine the estimated total impact of the judiciary's planning process, we projected the judiciary's findings for the completed districts to all 94 districts. Our projection indicated that for all 94 districts the total space requirements for courts and related agencies would increase to about 36.9 million square feet over a 10-year period, a 97-percent increase.

Our report shows that there were problems in each of the three areas we examined. The judiciary's process should be revised to produce results that would serve as a better basis for Congress to authorize and fund construction and renovation projects. I would like now to discuss our findings in each area.

DISTRICTS HAVE RECEIVED INCONSISTENT TREATMENT

The judiciary's method for projecting space needs has treated districts inconsistently. The process began in 1989 and as of September 1, 1992, the judiciary had projected space needs for 60

of the 94 districts. All districts are not scheduled for completion until 1994. Since the process began, the judiciary has made a number of changes in the way space is allocated but has not routinely revised the completed plans to reflect the changes. Consequently, those districts whose plans were completed early received lower space allocations than those that were completed later. We understand that the judiciary has begun now to update the completed plans to eliminate these inconsistencies.

Also, the period used to project caseloads was not the same for all districts. The judiciary used 40 years of historic data to project future caseloads. Depending on when it estimated a district's space needs, a different 40-year period was chosen. For example, some early districts' projections were based upon historic data for 1949 through 1989, others from 1952 through 1992. The increase in the number of bankruptcy filings that occurred during 1990 and 1991 was not reflected in the first set of projections, thereby comparatively underestimating the space needs for bankruptcy courts. This problem should be mitigated, however, when the judiciary reduces its planning cycle from 5 years to 2 years, as we understand it will do beginning next year.

Finally, when the judiciary developed the ratio of personnel-to-caseload in order to determine future staffing needs, it gave equal weight to all cases. These ratios ignored differences among districts' caseloads, such as case complexity and length of

trials that could directly affect space needs.

JUDICIARY BASELINES HAVE NOT REFLECTED CURRENT NEEDS

The judiciary used the districts' current amount of space plus any unmet space needs for its authorized staffing levels to calculate the baseline to which future needs would be added. Consequently, when a district occupied more space or had more staff authorized than its caseload warranted, projections of future space needs were overstated.

To calculate the effect of this practice on projections, we tested two alternative methods for determining baselines. The first alternative used the amount of space that would be indicated by the districts' current caseloads; the second alternative used the amount of space indicated by the authorized staffing levels. Both of these alternatives assumed that additional space was not added until the caseload increased to the level that more staff was needed. Both alternatives indicated that the baselines for about one-third of the districts were understated, while for the remaining two-thirds the baselines were overstated.

PROJECTION METHODS HAVE NOT PRODUCED RELIABLE RESULTS

The long-range planning process used by the judiciary has not produced reliable estimates of future space needs. First, the methodology used to make initial caseload projections was

statistically flawed. The judiciary averaged the results of different regression analyses to develop its projections of future caseload. As a consequence, the accuracy of these projections could not be measured statistically.

In addition, the high level of subjectivity in the process made it likely that if the process were repeated for the same district the final estimate would be different. Subjectivity occurred at two points in the process. First, when initial caseload estimates were made, if the estimate seemed too low, it was arbitrarily increased. Second, because the local representatives did not have available caseload projections when they provided their input, the final estimates of needs were based primarily on their subjective experiences.

To assess the overall accuracy of the judiciary's process, we developed 10-year projections of space needs for the judiciary using a standard acceptable statistical method. Our analysis indicated that the judiciary's 10-year projections of court space needs were higher than our estimates in 76 districts by about 5 million square feet and were lower in 18 districts by 1.4 million square feet. Overall, the judiciary's estimates were about 16 percent higher than our estimates. Using our estimate of \$31 per square foot, which reflected the judiciary's average cost for all court space for the period 1988 to 1992, the judiciary's projections could represent an overestimate of about \$112 million per year or \$1.1 billion for the 10-year planning period.

In summary, the judiciary's long-range process has problems that impair the accuracy of its estimates. We recognize that it is difficult to project future space needs with precision. However, the judiciary could obtain more reliable estimates of future space needs by modifying its process to (1) treat all districts consistently, (2) use baselines that reflect current caseloads, and (3) use a statistically acceptable method to project future caseloads. As a result, Congress could then have a better basis for its decisionmaking.

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Mr. Chairman, this concludes my prepared statement. My colleagues and I will be pleased to answer any questions.

GAO

United States General Accounting Office

Report to the Ranking Minority Member,
Subcommittee on Investigations and
Oversight, Committee on Public Works
and Transportation, House of
Representatives

September 1993

FEDERAL JUDICIARY SPACE

Long-Range Planning Process Needs Revision



GAO/GGD-93-132



United States
General Accounting Office
Washington, D.C. 20548

General Government Division

B-249771

September 28, 1993

The Honorable James M. Inhofe
Ranking Minority Member
Subcommittee on Investigations
and Oversight
Committee on Public Works and
Transportation
House of Representatives

Dear Mr. Inhofe:

This report responds to your request that we review the reasonableness of the methodology used by the Administrative Office of the U.S. Courts (AOC) to project long-range space needs. Overall, we found that AOC's methodology had several weaknesses: (1) districts were not treated consistently, (2) baselines did not reflect current needs, and (3) final estimates of future space needs lacked reliability.

The report makes several recommendations to the Director of the Administrative Office of the U.S. Courts that are aimed at improving AOC's long-range planning process.

As agreed with the Subcommittee, unless you publicly announce the contents of the report earlier, we plan no further distribution until 30 days from the date of the report. At that time, we will send copies to the Director of the Administrative Office of the United States Courts, the Administrator of General Services, the Director of the Office of Management and Budget, and other interested congressional committees and subcommittees. Copies will be made available to others upon request.

Please contact me at (202) 512-8676 if you have any questions concerning this report or would like further information. Major contributors to this report are listed in appendix IV.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "William M. Hunt".

William M. Hunt
Director, Federal Management
Issues

Executive Summary

Purpose

Between 1979 and 1988, the federal judiciary's caseload increased by 99 percent, thereby creating a need for additional court space. Initial estimates from the long-range planning process, established by the judiciary in 1988 to project its future space needs, indicated that need for court space will continue to grow for the next 30 years. In 1991 Congress appropriated over \$546 million for 13 new court construction projects, or about 42 percent of the total amount appropriated to the General Services Administration (GSA) for new construction projects. Concerned about the judiciary's continuing requests for more space, the Ranking Minority Member of the Subcommittee on Investigations and Oversight, House Committee on Public Works and Transportation, asked GAO to evaluate the reasonableness of the methodology used by the judiciary to project long-range space needs and to assess the reliability of the projections.

Background

In 1988, to anticipate future space requirements, the Judicial Conference of the United States, the policymaking body of the judiciary, directed each of the 94 district courts to develop a long-range plan for its space needs. It also directed the Administrative Office of the U.S. Courts (AOC), the administrative body of the judiciary, to provide the districts with the necessary planning guidance. By establishing a long-range planning process, the judiciary became one of the first government organizations to develop a mechanism for anticipating space needs. GSA uses the 10-year space projections provided by the judiciary as the basis for requests to Congress for new construction and expansion of court space in existing facilities.

The Judicial Conference also requested independent authority from Congress to acquire its own judicial facilities. The judiciary believed that such authority would provide greater control and flexibility because it would no longer be dependent upon the executive branch for space. Congress has not acted upon this request.

AOC developed an on-going, long-range planning process based on the basic assumptions that (1) caseloads should determine staffing needs, which, in turn, should dictate space needs; (2) local district representatives should determine actual space needs rather than depending primarily upon statistical estimation methods; and (3) each district is of equal importance and, therefore, space needs should not be prioritized among districts.

Executive Summary

Under its long-range planning process, AOC annually categorizes the 94 districts into 1 of 4 groups on the basis of the district's total caseload. For each group, the average ratios of key personnel to specific caseloads are computed. AOC then develops 5-, 10-, 20-, and 30-year projections for each district for four different caseloads—bankruptcy filings, criminal and civil cases commenced, and the number of people under court supervision. AOC uses the ratios of caseload to key personnel to convert the projected caseload to staffing needs for each time period. Staffing needs are then converted to space needs using the U.S. Courts Design Guide, a planning document that was developed for use in the design of court space.

Because the judiciary believes that final space projections should reflect the knowledge and experience of local representatives, AOC's team conducted 3-day planning sessions in each of the 94 districts. The planning sessions were attended by local representatives from each of the court components, court-related agencies—the U.S. Attorneys' office, the U.S. Marshals Service, and the U.S. Trustees—and GSA. The local representatives reviewed and modified the initial staff and space projections and compared their current space assignments to the Design Guide to identify immediate, unmet space needs (deficits). The initial projections served as a starting point for discussion, and the representatives' modifications became the final projections of staff and space needs for the district. Agency officials reported that they do not plan to continue to routinely schedule on-site sessions after completion of all 94 districts.

As of September 1, 1992, AOC had completed space projections for 60 of the 94 districts. In order to determine the estimated total impact of AOC's planning process, GAO projected AOC's findings for the completed districts to the total 94 districts. GAO estimated that for all 94 districts, the total space requirements for courts and related agencies would increase to about 36.9 million square feet over a 10-year period, a 97-percent increase. (See p. 24.)

Because of the continuing requests for additional court space, GSA officials raised concerns about the methodology used by AOC to project future needs. When they communicated these concerns to Congress, GAO was asked to evaluate the methodology that AOC was using for long-range planning and to assess the reliability of the results produced.

Results in Brief

GAO found that AOC's process for projecting long-range space needs did not produce results that were sufficiently reliable to form the basis for congressional authorization and funding approval of new construction and renovation projects for court space. GAO's analysis indicated that AOC's projections of caseloads were higher than those generated using a standard statistical method in 76 districts and were lower in the remaining 18 districts. When GAO used an estimate of \$31 per square foot, which represented the judiciary's average cost for all court space, the difference translated to a net cost in constant dollars of approximately \$112 million annually, or \$1.1 billion over the 10-year period.

GAO identified three key problems that have impaired the accuracy and reliability of the judiciary's projections. First, AOC had not treated all districts consistently. One reason for this was that it did not routinely revise district plans that were completed earlier to reflect changes made to critical factors, such as the space allocation per individual staff. Also, the procedure used to convert caseload estimates to staffing requirements did not reflect differences among districts that affect space needs. Second, based on AOC's assumptions regarding the relationship between caseloads and staff needs, many districts' baselines to which future space needs are added did not accurately reflect their current space needs. AOC used as the baseline for a district the amount of space it occupied plus any deficit identified by the local representatives. As a consequence, when a district occupied more space than the caseload warranted, future estimates of needs were overstated. Third, AOC's process did not provide reliable estimates of future space needs because the methodology used to project caseloads was not statistically acceptable. In addition, because of the amount of subjectivity involved in the process, it is likely that if the process were repeated for any district, even without any change to the caseloads, the estimate of space needs would be different.

GAO recognizes that it is difficult to project future space needs with precision. The projection of such needs is not an exact science, and in the final analysis, it is reasonable to expect some variation between the estimate and what is actually needed. Space estimates are particularly challenging for the judiciary because there are numerous factors that cause changes in the workload, and therefore space needs, which are beyond its control. However, by modifying the process, more reliable assessments of future space needs could be obtained that would provide a better basis for decisionmaking by GSA and by Congress.

GAO Analysis

Districts Have Been Treated Inconsistently

AOC's method for projecting space needs has treated districts inconsistently. The process began in 1989, but all 94 districts are not scheduled for completion until 1994. Since 1989, AOC has made a number of changes in the way space is allocated but has not routinely revised the completed plans to reflect the changes. As a consequence, those districts whose plans were completed early received lower space allocations than did those completed later. (See pp. 27-30.)

Another problem was the use of data from different time periods when future space needs were projected. AOC used 40 years of historic data to project future caseloads. Because the process has required 5 years for the completion of plans for all districts, the time period used to make caseload projections has not been the same for all districts. For example, some districts' estimates were based upon historic data for 1949 through 1989, while others included 1952 through 1992. The increase in the number of bankruptcy filings that occurred during 1990 and 1991 was not reflected in the early projections, thereby resulting in underestimates of space needs for bankruptcy courts. (See pp. 30-31.)

Another problem related to AOC's method of grouping districts into one of four "growth models." It used the districts' total caseloads, including civil and criminal cases commenced, bankruptcy filings, and number of persons under supervision, as the basis for determining the growth model. The average caseload, number of key personnel, and ratio of other staff to key personnel were then determined within each growth model. These data defined the relationships between caseloads and staff needs that were applied within each growth model when future space needs were calculated. This method gave equal weight to all cases and ignored differences among districts' caseloads that directly affected space needs, such as case complexity and length of trials. (See pp. 31-32.)

Baselines Have Not Reflected Current Needs

One of AOC's basic assumptions is that caseloads should determine staff needs, which should define space needs. However, GAO found that when determining the baselines, to which future space needs were added, AOC assumed that all authorized staff were needed. Therefore, space allocations were included for all staff regardless of whether the staff was justified by current caseloads. In addition, AOC included deficits in the

baselines without verifying that they represented actual space needs. (See p. 36.)

To determine the impact of these practices on projections, GAO tested two alternative methods for determining baselines. GAO did not include deficits as part of the baseline under either alternative. The first GAO alternative established district baselines directly from current caseload, while the second GAO alternative established baselines according to the number of authorized staff positions.

Under the first of these alternatives, GAO used AOC's caseload-to-staff ratios to convert current caseloads to staff needs. The Design Guide space allocations were then applied to determine the amount of space required to house this level of staff. On the basis of this alternative, GAO estimated that AOC's baselines overstated space needs in 65 districts by about 3 million square feet and understated needs in 29 districts by about 840,000 square feet. (See pp. 38-39.)

Under the second alternative, GAO began with the current staffing levels to establish the amount of space currently required. This alternative recognized that current staff levels may not correspond to the level needed to process the caseload. However, this alternative also recognized that existing staff levels could not be readily modified. On the basis of this alternative, GAO estimated that AOC's baselines overstated space needs in 63 districts by about 2.1 million square feet and understated baselines in 31 districts by about 1 million square feet. (See pp. 39-40.)

Under either of these alternatives, the GAO position was that additional space is not warranted until the caseload increases to the level that more staff are needed.

Projection Methods Have Not Produced Reliable Results

The long-range planning process used by AOC has not produced reliable estimates of future space needs. First, the methodology used to make initial caseload projections was statistically flawed. AOC averaged the results of different regression analyses to develop its final estimates. As a consequence, the accuracy of the initial caseload projections cannot be measured statistically. (See p. 46.)

In addition, the high level of subjectivity in the process made it likely that if the process were repeated for the same district even without a change in the caseloads, the final estimate of space needs would be different.

Subjectivity occurred at two points in the process. First, when initial caseload projections were made, if the estimate seemed to be too low, it was arbitrarily increased. (See pp. 46 and 47). Second, because the local representatives did not have available the caseload projections made by AOC prior to the on-site sessions, the final estimates of needs were based primarily upon their subjective experiences. (See pp. 47-49).

To assess the overall reliability of AOC's process, GAO developed 5- and 10-year projections of space needs for the judiciary using a standard acceptable statistical method. This analysis indicated that the judiciary's 10-year projections of court space needs were higher than GAO's estimates in 76 districts by about 5 million square feet and were lower in 18 districts by about 1.4 million square feet. Overall, AOC's estimates were about 16 percent higher than GAO's estimates. Using a GAO estimate of \$31 per square foot, which reflected the judiciary's average cost for all court space for the period 1988 to 1992, this would represent an overestimate of about \$112 million per year, or \$1.1 billion for the 10-year planning period. (See p. 52).

Recommendations

GAO recommends that the Director of the Administrative Office of the U.S. Courts revise the future operations of the long-range planning process to

- treat all districts consistently in terms of the application of the assumptions regarding the relationships between caseloads, staff, and space (see p. 34);
- establish a baseline for each district that reflects its current caseload (see p. 42); and
- increase the reliability of the results by using an acceptable statistical methodology to project future caseloads and by reducing the level of subjectivity in the process (see p. 54).

Agency Comments

AOC provided written comments on a draft of this report; the text of these comments is presented in appendix III. AOC's comments and GAO's responses are discussed at the end of chapters 2, 3, 4, and appendix III. On June 21, 1993, GAO met with the Assistant Commissioner, Office of Planning, GSA. He provided official oral comments on a draft of this report. GAO also met with agency officials from AOC to discuss their comments.

AOC agreed with GAO that all districts should be treated consistently, even though this has not occurred in the past; however, AOC pointed out that

Executive Summary

these inconsistencies were not intentional. GAO does not imply in the draft report that the inconsistencies were intentional. However, because of the 5-year period required to complete all districts, changes did occur that affected some districts, particularly those that had plans completed early in the period. Following the completion of plans for all 94 districts in early 1994, on-site planning sessions will no longer be routinely scheduled for all districts, thereby reducing the time required to complete all districts from 5 years to 2 years. As a direct consequence, the likelihood of changes that affect space allocations will be reduced, although not eliminated. GAO's position is that any time there is a change that affects space allocations, the plans for all districts should be updated to prevent the occurrence of inequities.

AOC stated that GAO misused its basic planning assumption that caseloads should determine staff needs, which should determine space needs, when it applied this assumption to determine the amount of current space needed (baselines). AOC's intent was that this assumption apply only to future needs, not to current needs, and that the baselines should reflect current space plus deficits. GAO's position is that the baselines used by AOC often do not accurately reflect existing needs; therefore, the estimates of future requirements will continue to reflect any existing overages or shortages in terms of the amount of space needed to process the districts' caseloads.

AOC commented that the projection of future space needs should be dependent primarily upon the qualitative information provided by the local representatives rather than upon statistical procedures. GAO recognizes that qualitative methods, which involve group participation, can be used successfully in some instances to generate accurate projections. However, there are two basic restrictions to the use of these qualitative methods. The participants should be experts in the relevant area, and the projection period should be limited to 1 or 2 years. However, the local representatives who participate in AOC's on-site sessions often would not qualify as experts, and AOC does not limit this method to short-term projections. Therefore, even if experts were involved the estimates produced would lack reliability. AOC stated that beginning in 1994 on-site sessions will no longer be routinely scheduled and that local input will be obtained through other channels. This may result in a reduction of the subjectivity and an improvement in the reliability of the estimates. However, GAO's position is that AOC should examine various alternative statistical methods for estimating caseloads. AOC could then directly translate these statistical projections into space requirements by applying

Executive Summary

its assumptions regarding the relationships between caseloads and staff/space.

A general issue that AOC and GSA raised was that the total process for the acquisition of facilities is more complex than just the long-range plans. GAO recognizes that the court's projection of long-range space needs is only one phase of a complex process. However, GAO was only asked to evaluate the methodology the courts used for making long-range plans, not to evaluate the total space acquisition process.

GSA officials indicated that they concurred with the GAO draft report. They stated that the GAO methodology for calculating baselines represented a way to improve the reliability of future estimates of space needs for the judiciary. They also agreed with GAO that AOC should examine alternative caseload projection methods.

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 Abbreviations

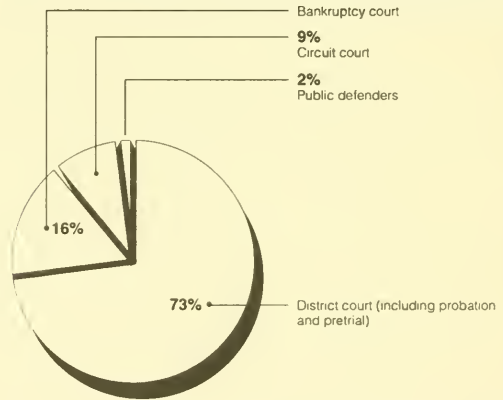
AOC	Administrative Office of the U.S. Courts
GSA	General Services Administration

Introduction

Background

The United States is divided geographically into 12 judicial circuits, including the District of Columbia. These circuits contain 94 districts, each of which may include as many as 6 different court components: the district court, the bankruptcy court, the circuit court, the probation office, the pretrial office, and the public defenders' office. Each district occupies one or more buildings that may be located at various sites. In March 1992, the court components occupied about 14 million square feet of space in the 94 districts. Figure 1.1 shows the proportion of this space occupied by each of the court components.

Figure 1.1: Proportion of Space Occupied by Court Components

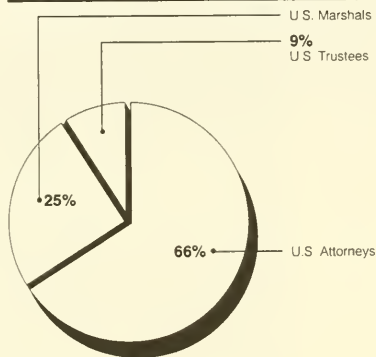


Source: AOC

Three executive branch agencies have functions that directly relate to those of the courts and are included in court space plans: (1) the U.S. Attorneys, who prosecute criminal defendants in federal courts; (2) the

U.S. Marshals Service, which provides security for the federal courts; and (3) the U.S. Trustees, who provide administrative support for the bankruptcy courts. In March 1992, these court-related agencies occupied about 4.7 million square feet in the 94 districts. Figure 1.2 shows the proportion of space occupied by each of the related agencies.

Figure 1.2: Proportion of Space Occupied by Related Agencies



Source: AOC.

Although it is a separate branch of government, the judiciary is dependent on the executive branch to acquire and operate its space and facilities. The General Services Administration (GSA) serves as the landlord for the judiciary and other federal agencies. We reported in December 1991 that during fiscal years 1981 through 1990, GSA used on average about 14 percent of its total capital funding to satisfy the courts' expansion requirements.¹ During fiscal year 1991, Congress approved 13 new construction projects for court facilities at a cost of about \$546 million, or

¹U.S. Courts: Estimated User Fee to Pay for New Facilities (GAO/GGD-92-8BR, Dec. 10, 1991).

42 percent of total GSA appropriations for new construction. Repairs and alterations were also approved for 10 courthouses at a cost of \$58.4 million, or about 7 percent of the total appropriations for repair and alterations. Due to the increased number of projects requested by the judiciary, GSA officials expressed a concern about the accuracy of the methodology used by the Administrative Office of the U.S. Courts (AOC) to project long-range space needs.

The Judicial Conference of the United States, the policymaking body of the judiciary, has asked Congress for independent authority to acquire its own space and facilities. According to court officials, such authority would provide greater control and flexibility while allowing the courts to be more responsive to the facilities needs of newly created judgeships. Court officials also said that they should not have to compete with other agencies for building funds or be subject to executive branch control. Congress has not yet acted upon this request.

During the 10-year period from 1979 until 1988, the judicial caseload grew by 99 percent. As a result of the associated staff growth, the existing court space was not sufficient. The judiciary, like other government components, had no mechanism for anticipating future space needs, despite the fact that long-range planning should be an essential part of any capital expenditure program. In 1988, to determine where new and additional space was needed, the Judicial Conference directed the 94 districts to develop long-range plans that would allow them to identify their space and facilities needs on a continuing basis. The Judicial Conference asked AOC, the administrative arm of the judiciary, to develop guidance for assembling such plans. To comply with the Judicial Conference's directive, AOC developed a long-range planning process, which was implemented in the first district in early 1989.

As of September 1, 1992, AOC had completed long-range plans for 60 of the 94 districts. According to judiciary officials, AOC expected to complete plans for all 94 districts by January 1994. The process will then be repeated with modifications—on-site sessions will no longer be routinely scheduled and a newly developed computer system will be used to identify deficits.

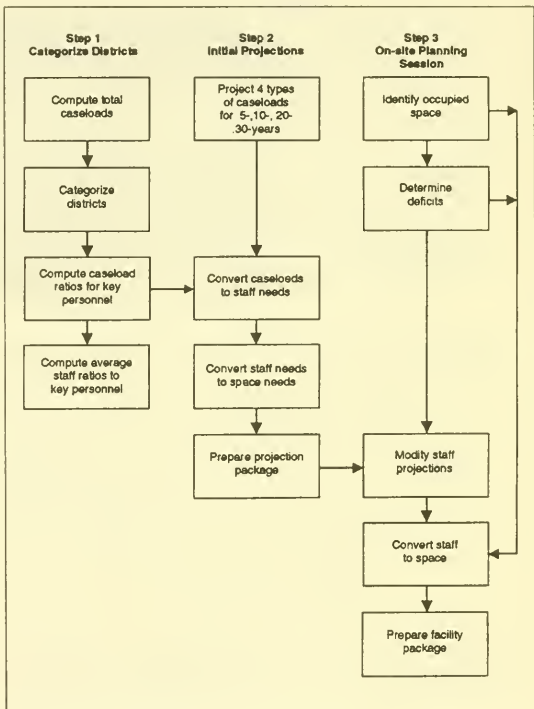
AOC's Long-Range Planning Process

The basic assumptions upon which AOC's long-range planning process was developed are as follows:

(1) Caseloads should determine staffing needs which in turn should dictate space needs within each district. (2) Final estimates of future staff and space needs should be determined by local district representatives without reliance upon statistical methods. (3) Each district is of equal importance and, therefore, space needs should not be prioritized among districts.

AOC's long-range planning process has involved three major steps: (1) the 94 districts were categorized annually into 1 of 4 groups, or growth models, according to total caseloads; (2) each district's caseloads were estimated for the 5-, 10-, 20-, and 30-year time periods, and the caseload estimates were converted to staff and space requirements; and (3) on-site planning sessions were held in the districts to obtain the perspective available from local representatives. Figure 1.3 illustrates how AOC's long-range planning process has operated.

Figure 1.3: AOC's Long-Range Planning Process



Source: AOC Projection Packages

**Step 1: Categorizing
Districts Into Growth
Models**

On an annual basis, AOC categorized the 94 districts into 1 of 4 groups according to the most recent year's total caseload. Caseloads included the number of civil and criminal cases commenced, bankruptcy filings, and the number of persons under supervision. Because some districts objected to being classified as small, medium, large, or large complex, AOC referred to the four categories as growth models 1 through 4.²

Within each growth model, AOC calculated the average caseload-to-staff ratio for key personnel and the average ratio of support staff to key personnel using the most current data available. Table 1.1 shows the results of these calculations based upon 1991 data. The caseload-to-personnel ratios formed the basis for converting projected caseloads for a district into staff needs during step 2 of the planning process.

²The term growth model was selected to indicate AOC's intent that the groups reflect the anticipated patterns of growth over time. AOC expected that in growth model 1 caseloads would grow at a slow rate; the districts in growth model 2 would experience steady, consistent growth; growth model 3 would be heterogeneous in nature with mixed growth patterns; and growth model 4 would include large, fast-growing districts.

Table 1.1: Growth Models—Ratios of Key Personnel to Defined Caseloads and Ratios of Support Personnel to Key Personnel

Court component	Personnel classification	Growth model 1	Growth model 2	Growth model 3	Growth model 4
District Court	Judge ^a	363 civil and criminal cases	426 civil and criminal cases	496 civil and criminal cases	541 civil and criminal cases
	Senior Judge	.33 per judge	.33 per judge	.40 per judge	.45 per judge
	Magistrate	.33 per judge	.50 per judge	.50 per judge	.70 per judge
	Clerks	6 per judge	7 per judge	8 per judge	9 per judge
Bankruptcy Court	Judge ^a	1,424 filings	1,468 filings	2,172 filings	2,428 filings
	Clerks	12 per judge	14 per judge	14.5 per judge	15 per judge
Probation	Officer ^a	30 supervised	31 supervised	31 supervised	31 supervised
	Clerical	63 per officer	63 per officer	62 per officer	60 per officer
Pretrial	Officer ^a	105 criminal cases	110 criminal cases	115 criminal cases	90 criminal cases
	Clerical	60 per officer	66 per officer	57 per officer	54 per officer
Public Defenders	Attorneys ^a	110 criminal cases	101 criminal cases	101 criminal cases	76 criminal cases
	Investigators	25 per attorney	25 per attorney	25 per attorney	22 per attorney
	Paralegal	10 per attorney	10 per attorney	10 per attorney	10 per attorney
	Clerical	60 per attorney	60 per attorney	63 per attorney	69 per attorney
Circuit Court	Judges	.33 per district judge	.33 per district judge	.30 per district judge	.25 per district judge
	Senior Judge	.33 per circuit judge	.50 per circuit judge	.30 per circuit judge	.66 per circuit judge

^aIndicates key personnel position; the ratio is based on caseload

Source: AOC's Facility Projection Packages

Step 2: Initial Projections and Preliminary Materials

During the second step, AOC developed initial caseload projections for any district for which the plans had not been completed. AOC used 40 years of historic data as the basis from which to project future caseloads, giving more weight to most recent experience. AOC officials reported that they used quadratic and linear regression models³ to generate estimates of future caseload filings for civil, criminal, and bankruptcy cases, as well as the number of persons under court supervision. AOC averaged the estimates obtained from these analyses to obtain 5-, 10-, 20- and 30-year projections of caseloads. AOC reported that they may use other different regression models when it appears that the initial projections obtained were too low.

³Regression analysis is a statistical procedure for estimating the value of one variable (Y) using information about an associated variable (X). Appendix C contains a full description of the procedure used by AOC to estimate caseloads.

Using the caseload estimates and the appropriate growth model, AOC determined the associated staffing needs for each of the district court components. The numbers of key personnel—district court judges, bankruptcy judges, probation officers, pretrial officers, and public defenders—were calculated directly from the projected caseloads for the 5-, 10-, 20-, and 30-year periods. The numbers of staff for other personnel classifications depended on the numbers of the key personnel.

AOC first determined the future staff needs for each time period on the basis of the caseload projections. It then calculated the difference between these numbers and the district's current staff, using current staff information obtained annually from AOC's Office of Personnel. The change in numbers of staff by personnel classification was then used to estimate the amount of space that would be needed to house the staff. AOC added the new space needs to current occupied space to determine the total amount of space required at each time period.

The U.S. Courts Design Guide was developed by the judiciary to provide specific criteria to use when designing court and related agency space. The Design Guide provides standards regarding the suitable space for each function or personnel position, as well as for special purpose space, such as courtrooms and judges' chambers. Under AOC's planning process the Design Guide formed the basis for converting staffing projections to space needs. Table 1.2 shows the space allocations for the staff classifications currently used by AOC to convert staff projections to space needs.

Chapter 1
Introduction

**Table 1.2: Space Allocations Used by
AOC According to Personnel
Classifications**

Court component	Personnel type	Square feet per person
District Court	Judgeships	6,145
	Senior judges	6,145
	Magistrates	4,695
	Clerks	125
	Reporters	300
Bankruptcy Court	Judgeships	4,770
	Clerks	125
Probation Office	Officers	150
	Support	125
Pre-Trial Services	Officers	150
	Support	125
Public Defenders	Attorneys	200
	Investigators	150
	Paralegal	150
	Support	125
Circuit Court	Judgeships	2,340

Source: AOC's Facility Plans.

When converting staffing projections to space needs, AOC also applied an add-on factor that was composed of two parts: circulation and contingency. The Design Guide specifies that after the total number of square feet for staff/functional areas is computed, 20 percent should be added to allow for circulation space, which includes areas such as internal hallways. In addition, the Design Guide provides for other space requirements not directly associated with individual staff, such as jury assembly rooms, records and supplies storage areas, and copier areas. AOC referred to this as a contingency factor and added 25 percent to total court component space needs. Thus, 45 percent was added to the total space projections for court components to account for internal circulation and areas not related to individual staff/functions.

AOC computed space requirements for the 5-, 10-, 20-, and 30-year periods by applying the Design Guide criteria plus the 45 percent add-on to the estimates of future staffing that would be required to process the projected caseloads. These initial projections of staffing needs and space requirements were summarized in planning materials that were provided to local representatives prior to the on-site sessions. AOC also sent the

districts related demographic information derived from Census Bureau data and summary charts showing historic caseloads.

Step 3: On-Site Planning Sessions⁴

The third step, which AOC viewed as the most critical aspect of the total process, has been 3-day, on-site planning sessions in each district involving the two-member AOC team,⁵ local representatives from the various court components and related agencies, and local GSA staff. The purpose of the on-site session was to obtain information from the local representatives and GSA that would determine the final estimates of future space requirements.

During the 3-day session, the local representatives first updated the current staffing information. The local representatives then provided information regarding estimated future staff needs based on their personal knowledge and experience. They also described any special factors that warranted consideration when future projections were determined, such as expected retirements. When a circuit court headquarters occupied space within the district, the local representatives made estimates of this component's future space requirements as well. The local representatives did not have available the actual caseload projections made by AOC prior to the on-site session. For this reason, their estimates were based primarily upon their subjective experience.

Court-Related Agency Projections—At the on-site session, the AOC team also obtained information from the related agencies about their current and projected staffing. AOC used data from districts whose plans were already completed to calculate the average square feet occupied by the staff within each related agency. AOC used an average of 325 square feet per individual for the U.S. Attorney's offices, 425 for the U.S. Marshals Service, and 455 for the U.S. Trustees. This space included conference rooms and storage areas as well as general office facilities. Projections of future space needs for these agencies did not receive the add-on percentage for circulation or contingency factors.

⁴ After AOC completes the 94 districts' plans, on-site sessions will no longer be routinely scheduled as part of the ongoing process for updating space plans. AOC is examining alternatives, such as video conferences or mailed surveys, with on-site sessions being used only when special circumstances warrant the need for extensive personal interaction.

⁵ Since the inception of the long-range planning process, its management and operation have been dependent solely upon a two-member team, which includes the Chief of the Projects Development Branch of AOC's Space and Facilities Division and a consultant to AOC.

Identification of Deficits—A part of the on-site session was spent discussing current unmet needs. The local representatives identified the unmet needs or deficits. A deficit represented the difference between the space a component occupied and the amount of space to which the local representatives believed they were entitled according to the judiciary's Design Guide. The representatives from the related agencies also determined whether they had unmet space needs.

Conclusion of the On-site Session—After receiving the final estimates of future staff needs for each time period from the local representatives, AOC calculated the differences between these numbers and the district's current staff levels as provided by the local representatives. AOC applied the Design Guide criteria to the estimated staff change to generate the estimated change in space needs. The increased space needs were then added to the occupied space plus deficits (the baseline) to determine the total amount of space that would be needed to house the staff.

Using the method described above, at the conclusion of the on-site session, the AOC team generated new space estimates for each court component and for each of the related agencies on the basis of information from the local representatives. The AOC team prepared a revised package of materials, which focused on the buildings currently occupied by the courts and related agencies. The package of materials included timelines that showed for each occupied building all federal agencies that occupied space, the amount of space occupied, and projections regarding how these buildings could meet future court and related agency needs. The materials also included estimates that showed when the space needs of the court and related agencies would exceed each building's capacity.

At the end of the 3-day planning session, the AOC team asked the local representatives to prepare "assumption letters" that described the representatives' bases for their estimates of future staff changes. The local representatives provided the assumption letters to AOC as support for their final space estimates.

After the Chief Judge within the district approved the final plan, GSA received copies of the plan. GSA reported that its regional offices generally use AOC's 10-year plans to form the basis for requests for project authorization and funding for new construction and alterations to existing space without further review or examination. However, on occasion a GSA

regional office may request additional information when an actual building prospectus is being prepared.

Status of the Long-Range Planning Process

As of September 1, 1992, AOC had completed long-range plans for 60 of the 94 districts. For six of the districts that were completed early in the process, the data contained in AOC's files were not sufficient for our analyses. Appendix II contains a table showing the current space occupied by the courts and related agencies and AOC's projected space needs for 5, 10, 20, and 30 years for each of the 54 districts included in our analyses.

On the basis of data from the 54 districts, we estimated the space needs for the remaining 40 districts. As shown in table 1.3, under AOC's process nationwide space needs for court components and related agencies will increase from the current level of about 18.7 million square feet to about 53 million over the 30-year projection period (a 183-percent increase). Using \$31 per square foot to represent the average total cost of court space from 1988 through 1992, we estimate the government's total annual cost associated with current space is about \$579 million. At the conclusion of the 30-year time span, the government's annual cost will have increased to \$1,642 million (assuming constant dollars). Appendix II includes a description of the methodology we used to determine the \$31 per-square-foot cost.

Table 1.3: Projected Total Space Needs for Courts and Related Agencies for 94 Districts Plus Annualized Costs

	Total square feet for 54 completed districts	Estimated square feet for remaining 40 districts	Total square feet for all 94 districts	Total annualized cost (in millions) ^a
Current	11,771,304	6,897,700	18,669,004	\$579
Current plus deficit	14,911,253	8,737,634	23,648,887	733
5-year projection	19,980,968	11,785,413	31,766,382	985
10-year projection	23,746,936	13,158,267	36,905,203	1,144
20-year projection	29,556,046	14,686,830	44,242,876	1,372
30-year projection	35,658,563	17,308,670	52,967,233	1,642

^aCalculated using \$31 per square foot in constant 1992 dollars

Source: GAO calculations from data in AOC long-range facility plans

Objective, Scope, and Methodology

Our objective was to evaluate the reasonableness of the methodology used by the U.S. Courts to project long-range space needs and to determine

whether the results produced are reasonable indicators of future space needs. To accomplish this objective, we

- determined whether the assumptions used by AOC were applied consistently from district to district,
- assessed the baselines from which AOC makes future space projections to ensure that AOC's baselines accurately represented current space needs, and
- assessed the projection methodology used by AOC to determine whether the process produced reliable estimates of future space needs.

We interviewed officials from the Space and Facilities Division of AOC's office in Washington, D.C., and the consultant hired by AOC to assist in implementing the long-range planning process. These officials provided detailed information on the operation of the process. We interviewed representatives from the National Center for State Courts and the National Institute of Building Sciences to obtain information regarding space allocations for state, local, and international court facilities as well as those of the federal government. We also interviewed officials from GSA who provided us with information on how they used AOC's space plans.

We reviewed the planning files for those districts where AOC had completed the process. We collected such data as the amount of space occupied, deficits, and current staffing information from these files. In addition, we recorded from these files AOC's estimates of space and personnel projections for the next 5, 10, 20, and 30 years.

AOC provided us with a copy of its historic database, which included caseloads for each of the 94 districts either since 1952 or since the district was established. Caseloads include the number of civil cases and criminal cases commenced, the number of bankruptcy filings, and the number of persons under supervision. The database also included personnel data for each district covering fiscal year 1991. We did not verify the accuracy of AOC's historic caseload data, the personnel data, or the data obtained from the planning files.

Using AOC's databases and the data we collected from AOC's files, we developed alternative methods for establishing the baselines—one using current caseloads and the other using current staffing levels. We also used AOC's database and a standard statistical method to project future caseloads in order to test the feasibility of such a procedure. When developing the alternative baselines and future caseload projections, we

applied AOC's assumptions regarding growth models and the associated caseload to personnel ratios without considering possible changes to the way these factors are computed, such as the inclusion of case complexity. We applied the space allocation procedures as they were used by AOC. As a consequence, we were able to directly compare the results of our analyses to AOC's results.

We reviewed the computer software developed to support AOC's planning process and accompanied the AOC team on two on-site sessions. We chose Michigan Eastern (Detroit) and Delaware (Wilmington) because they represented diverse types of districts. Delaware occupied buildings in one city and Eastern Michigan occupied buildings in five different metropolitan locations. During these sessions, we observed the interaction between the AOC team members and the local team members to assess the effects of these sessions on the final determination of space needs.

Much of the data needed for our analyses were not available for six of the districts that AOC completed early in the process. These included California Eastern, Florida Southern, Massachusetts, North Carolina Western, Washington Western, and the District of Columbia districts. To estimate the overall impact of AOC's planning process, we projected the information from the 54 districts to the entire universe.

We did our work between April and November 1992 in accordance with generally accepted government auditing standards. We received official comments from AOC on a draft of this report, and these comments are included in appendix III. Our discussion of AOC's comments is presented on pages 34-35, 42-44, 54-56, and 97-102. We also received official oral comments on the draft report from the Assistant Commissioner, Office of Planning, GSA. These latter comments have been incorporated into the report as appropriate.

We also met with AOC officials to discuss their comments on our draft report. After the meeting AOC provided us with a copy of a draft final report prepared by the National Center for State Courts. Under a contract with AOC, the National Center for State Courts was charged with the task of providing an independent assessment of the long-range planning process and of our draft report. Our review of the National Center's draft final report found basic agreement regarding the problems associated with the methodology AOC used to estimate future space needs.⁶

⁶We found during our review that many of AOC's comments were taken directly from this document.

Districts Have Received Inconsistent Treatment

An important criterion for AOC's long-range planning process should be that all districts receive similar treatment given the same set of conditions. Differences in estimated future space needs among court districts should reflect different conditions rather than different applications of the methodology. We found that AOC applied its methodology differently across the districts. A primary cause of the differences was that since 1989 AOC has made changes to the process that directly affected space allocations and did not revise the earlier space plans accordingly. As a consequence, districts where the planning process occurred early received lower space allocations than did those that were done later.

We identified three specific problems that contributed to the inequitable treatment: (1) the several factors within the planning process were not applied consistently over time, (2) differences in the specific periods that were included in the 40 years of historic data used to make caseload estimates affected future estimates, and (3) AOC's method for categorizing districts to convert caseload to staffing needs did not reflect actual differences in space needs.

Planning Assumptions Have Not Been Applied Consistently

Since the inception of the long-range planning process in 1989, AOC has made a number of changes to parts of the process that directly affect the calculation of space needs. These changes have included

- altering the square-foot space allocations for the various personnel positions,
- increasing the space for internal hallways and for space not associated with personnel positions or specific functions, and
- placing greater emphasis on the identification of deficits.

As a result of the changes, those districts whose space needs were projected earlier received lower estimates of future space needs than did those done later, when in fact the differences reflected only changes in assumptions and not differences in need. Because all long-range plans were not regularly updated to reflect any changes in assumptions, these disparities among districts will continue into the future and reduce the reliability of the estimates for space needs.

Space Allocations Were Changed

As an example of the impact of changes in space allocations, we show the space allocation for district court judges in table 2.1. When the process began in 1989, AOC decided that 5,000 square feet was an appropriate space

Chapter 2
Districts Have Received Inconsistent
Treatment

allocation for a district court judge. With the distribution of the draft Design Guide in late 1990, the space allocation for district court judges increased to 5,810 square feet. In March 1991, the final Design Guide allocated a total of 6,295 square feet per district court judge. An error was found in this calculation, and the allocation was reduced to 6,145 in April 1992. Table 2.1 shows the different space allocation AOC used for district court judges in the 54 completed districts included in our analyses.

Table 2.1: Comparison of Numbers of Districts According to Space Allocations Used per District Court Judge

Time period	Total number of districts	5,000 sq. ft.	5,810 sq. ft.	5,850 sq. ft.	5,970 sq. ft.	6,145 sq. ft.	6,295 sq. ft.
Prior to 1/91	12	4	3	4	1		
1/91-6/91	13		13				
7/91-12/91	11		9				2
1/92-6/92	13					5	8
7/92-8/92	5					5	
Total	54	4	25	4	1	10	10

Source: GAO, compiled from AOC long-range facility plans.

Because of the inconsistency in the space allocations used over time, the long-range space plans for 34 districts provided for fewer than the 6,145 square feet currently allotted to district court judges. This difference accounted for a total of 125,015 square feet. On the other hand, the long-range space plans for 10 districts provided an allocation of 6,295 square feet for district court judges. Because this latter difference amounts to only 150 square feet per judge, the total was only 19,650 square feet. The lack of equity that resulted from these inconsistencies increased over the 5-, 10-, 20-, and 30-year projection periods because the same allocations were used for each of the time periods. AOC also made changes in the space allocations for other classifications of personnel over time.

Add-on Factor Was Increased

As indicated in chapter 1, the add-on factor was composed of two parts—one for circulation and one for contingency. The current Design Guide stipulates that a 20-percent factor should be added to the total square feet of court space for circulation, which includes internal hallways. The contingency factor, which has been changed several times since the long-range planning process began, was the percent added to

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account for space not associated directly with personnel, such as jury assembly rooms, records and supplies storage, and copier areas.⁷

As shown in table 2.2 the total add-on factor was gradually increased from 25 percent to 45 percent. According to AOC officials, these changes were made partially at the request of GSA, which reported that space needs for contingencies were being underestimated, and as a consequence GSA was forced to return to Congress for additional monies to complete projects. On the basis of our discussion with a GSA representative about other GSA space planning standards, the Design Guide standard of 20 percent for circulation appears to be a reasonable standard. Our limited review of space allocation practices by state, local, and international governments indicated that the add-on factor of 25 percent for special purpose court space also appeared to be reasonable.

Table 2.2: Comparison of Number of Districts According to Different Add-on Factors Applied to Space Projections

Time period	Number of districts	with 25-percent factor	with 30-percent factor	with 35-percent factor	with 40-percent factor	with 45-percent factor
Prior to 1/91	12	10	1	1		
1/91-6/91	13	1		11		1
7/91-12/91	11			2	1	8
1/92-6/92	13					13
7/92-8/92	5					5
Total	54	11	1	14	1	27

Source: GAO, compiled from AOC long-range facility plans

As a result of the differences over time in the application of the add-on factor, the long-range space plans for 27 districts provided less than the current 45 percent. In total the plans for these 27 districts would have included 680,068 more square feet if the 45-percent factor were used than they did under the lower add-on factors.

Identification of Deficits Has Received Increased Emphasis

According to AOC officials, when the planning process began, they assumed that any immediate, unmet needs (deficits) would be negotiated locally with GSA and, therefore, deficits were not considered under the long-range planning process.⁸ As this process continued, the emphasis on the

⁷The new automated system, AnyCourt, which applies the detailed Design Guide criteria to the number of staff input into the system, will eliminate the use of the 25 percent contingency factor.

⁸This is the reason that data for six of the districts were not adequate for inclusion in our analysis.

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identification of deficits changed. Table 2.3 shows over time the percent of AOC's baselines accounted for by deficits.

Table 2.3: Changed Emphasis on
Identification of Deficits

Time Period	Number of districts	Deficits as a percent of baselines
Prior to 1/91	12	19.0
1/91 to 6/91	13	23.8
7/91 to 12/91	11	25.5
1/92 to 6/92	13	33.4
7/92 to 9/92	5	52.1

Source: GAO, calculated from AOC data in long-range facility plans

Length of Time for AOC's Process Ignores Fluctuations in Caseloads

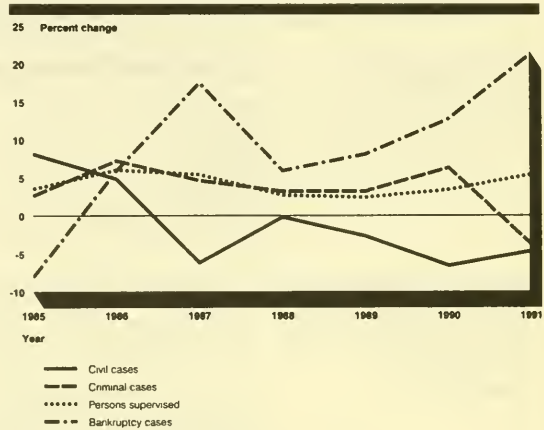
During the 12-month period ending September 1, 1992, AOC conducted on-site sessions for 24 districts. Assuming that AOC continues to conduct on-site sessions at this rate, AOC will complete all judicial districts in early 1994, or about 5 years after the inception of the process.

AOC developed the first space projections for 5 years after the date of the on-site session within each district. Because caseload projections were based on the most recent 40 years of historic data, only those done after 1992 include data from 1953 through 1992. Districts done in 1992 included data through 1991, those done in 1991 used data from 1951 through 1990, those done in 1990 used data from 1950 through 1989, and those done in 1989 used data from 1949 through 1988. AOC's historic caseload database showed that there have been wide fluctuations for particular types of caseloads over time.

The data in figure 2.1 demonstrate how the caseloads have fluctuated from 1985 until 1991. Estimates for those districts where the planning process was completed during 1989 and 1990 did not reflect the significant increases in bankruptcy caseloads that occurred during 1990 and 1991. On the other hand, the projected criminal caseloads for these districts did not reflect the decline in the criminal caseloads that occurred during 1991. Because AOC heavily weighted the most recent years, the space projections made during 1991 and 1992 understated bankruptcy-related space needs and overstated space needs related to criminal cases.

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Figure 2.1: Annual Percent Change in
Caseloads From 1985 to 1991



Source: GAO calculations using AOC historic database.

AOC Method of Classifying Districts May Result in Inconsistent Treatment

During the second step in the long-range planning process, AOC used the growth models' caseload-to-staff ratios to convert its estimates of future caseloads into staff requirements (see table 1.1). Unless growth models reflected differences among districts that related to space needs, the final estimates did not represent actual space needs. Appendix I includes a discussion of the actual criteria used to place districts within growth models.

The caseload projections for a district were compared to the growth model ratios to determine the number of key personnel required to process the estimated caseload. We found that under this process, growth model 1 districts had an advantage over districts in the other growth models during the part of the process when civil plus criminal caseloads determined the needed number of judges and related personnel. These districts could justify additional judges with a lesser increase in caseload.

On the other hand, we found that these same districts were at a disadvantage during the part of the process when ratios of support staff to key personnel were applied to compute the number of some support staff positions needed.

Total Caseload Is Not a Suitable Factor for Grouping Districts

Our analysis showed that the AOC process of using total caseloads to define the growth models did not meet the basic criteria for a useful method for classifying court districts, which is that the characteristics of districts in each growth model should be substantially different from those of the other growth models, and within a particular growth model the districts should share similar characteristics. In addition, AOC's use of total caseloads as the method for categorizing districts did not discriminate among districts on a factor that related to staffing needs. AOC's method gave equal weight to each case regardless of type and complexity. For example, a criminal case involving a single individual who was indicted for a minor traffic violation that occurred on federal property received the same weight as a multibillion-dollar bankruptcy case. In this way, the use of total caseload to classify districts ignored differences among districts in the complexity of their caseloads, such as crime types, numbers of defendants per case, average length of trials, and frequency of plea bargaining. As we previously reported, complexity factors determine the time required to process cases.⁹ Therefore, complexity should be considered in addition to total caseload when staff/space needs are determined.

Conclusions

After the process began in 1989, AOC made changes to the assumptions that directly affected the calculation of space needs. For example, the square-foot allocations for various personnel positions were changed as were the percentages associated with the add-on factors. Also, the emphasis on the identification of deficits increased over time. Because of these changes, the districts where the process was completed early received lower space allocations than they would have received if their plans were completed later. AOC did not routinely update all plans to reflect these changes.

Another example of inconsistent treatment is related to the fact that the 40 years of historic data used to make caseload estimates were not the same for all districts. Fluctuations in caseloads, which occur as a result of

⁹U.S. Attorneys: Better Models Can Reduce Resource Disparities Among Offices (GAO/IGD-91-39, March 6, 1991).

external factors such as changes in the economy, were not adequately addressed in a process that required 5 years for nationwide application. The reduction in the time required to complete all 94 districts from 5 years to 2 years will minimize the problem associated with short-term caseload fluctuations.

AOC classified districts into four growth models according to total caseloads and used the ratio of key personnel to caseload within each group to convert caseloads to staff needs. AOC's method for classifying districts also treated some districts unfairly because all cases received equal weight without regard to complexity. Complexity determines the time required to process cases and should be considered along with caseloads when determining staff/space needs.

Recommendations

We recommend that the Director of AOC revise its long-range planning process to ensure that all districts are treated consistently.

- AOC should prepare updated space plans for all districts whenever changes are made to the assumptions that affect staff/space allocations.
- AOC should devise a method for classifying districts that would consider case complexity in addition to caseload.

Agency Comments

AOC agreed with our position that districts should be treated consistently and that this has not occurred in the past. AOC pointed out that although districts have been treated inconsistently, this was not intentional. We did not imply in our draft report that the changes made in space allocations, emphasis given to deficits, and add-on factors were intentional. Our point is not that the changes were inappropriate given the circumstances. Instead, our concern is that the plans already completed were not routinely updated to account for all of the changes that occurred. As a consequence, some districts failed to receive the benefits of the increased allocations. We believe that the plans could have been updated without the need for additional on-site sessions, because AOC maintained all changes on the computer system that was used to generate the estimates of future needs.

AOC further stated that it has already begun the updating process for those districts where there is a special need. In our draft report we recommended that AOC reduce the time required to complete all 94 districts from 5 years to 1 year, possibly by eliminating on-site sessions to

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only those districts that did not concur with AOC's estimates. We deleted this recommendation because AOC stated that it will begin to update the plans for all districts biannually beginning in 1994. We believe that although fewer changes that affect space allocation will occur over 2 years than over 5 years, the process should include a provision for ensuring that updated plans are generated whenever such changes do occur.

AOC commented that the growth models reflect differences in the relative size of districts and that these differences relate to space needs. We believe there are other factors, particularly case complexity, that directly relate to the time required to process cases and, therefore, to space needs. While the growth models currently used by AOC may have, by chance, reflected some aspects of case complexity such as the number of defendants per case, we believe that further study is warranted to identify the caseload characteristics or other factors that most closely relate to the time required to process cases. Sophisticated computer models exist that would permit the simultaneous use of multiple factors to group districts rather than rely upon total caseload as the sole criterion.

AOC Baselines Have Not Reflected Current Needs

The AOC process, like any planning process, should use an appropriate foundation or baseline to which it adds future estimates. If the baseline does not reflect current needs, the projections of future space needs will not be accurate. Under its long-range planning process, AOC used as the baseline for a district the current occupied space plus the deficits identified by the local district representatives. When developing future estimates for each district, AOC added the estimated additional space needed to the baseline to derive total space needs for the 5-, 10-, 20-, and 30-year periods.

Our analyses, which used AOC's assumptions regarding the relationships between caseloads and staff needs, showed that AOC's baselines did not accurately reflect the current space needs for all districts.¹⁰ First, authorized staffing in a district did not necessarily reflect AOC's caseload-to-staffing ratios established under the growth models, because the ratios were the average within that particular growth model. Current authorized staffing for districts within a particular growth model therefore varied around the average. Second, when local representatives identified space deficits, the level of subjectivity involved reduced the reliability of the results. Improvements are needed in AOC's planning process to ensure that the baselines used do not exceed the amount of space needed according to its own assumptions regarding the relationships between caseloads and staffing needs.

AOC Baselines Equalled Current Space Plus Deficits

AOC used the space a district occupied plus the deficits identified by the local representatives as the baseline for projecting future space requirements. During the on-site planning sessions, the AOC team obtained information regarding the occupied space and deficits from the local court and related agency representatives as well as from GSA officials.

In 1992, the court components in the 94 districts occupied an estimated 14,014,838 square feet. The associated estimated total deficit was about 3,353,412 square feet.

Staffing Imbalances Have Affected Baseline Computations

One of AOC's basic assumptions in terms of its long-range planning process is that current caseload should determine staff needs, which should determine space needs. However, under AOC's calculations it assumed that all authorized staff were needed and, therefore, were entitled to space allocations, disregarding the caseload. If authorized staffing exceeded the

¹⁰This chapter deals solely with the court components.

level necessary to process the current caseload, subsequent projections of space needs were overstated. Conversely, if staffing levels were below the level necessary to process the existing caseloads, the projections were understated. We recognize that staffing decisions in the judiciary, as in any organization, are not necessarily determined strictly by workloads. However, under the assumptions of the long-range planning process, AOC could not make accurate estimates of future space needs without considering the impact of current over and understaffing.

Local Representatives' Perceptions Regarding Deficits Have Affected Baseline Computations

In preparation for the on-site session, local representatives were asked to determine whether the space that their organizational components occupied included all of the space allocations described in the Design Guide and whether each allocation contained the appropriate square footage. Although the Design Guide was developed to provide guidance during the design and construction of court facilities, we found that the AOC team instructed the local representatives that these space allocations should be considered as entitlements. Deficits represented the difference between the space occupied and the space the Design Guide allocates for an individual or a function. Deficits also represented a subjective determination on the part of the local representatives that additional space was needed for a particular function. Within 2 weeks after the on-site session, the local representatives were required to submit to AOC assumption letters that included support for deficits that were identified and for modifications to AOC's initial estimates of future staff needs.

The inclusion of the deficits as part of the baseline had a significant impact upon future estimates. For the 54 districts included in our analysis, deficits added 24 percent to the occupied space. Deficits ranged from 2,640 square feet in the Northern Mariana Islands district to over 150,000 square feet each in the Illinois Northern, Missouri Eastern, Michigan Eastern, and California Central districts.

Alternative Methods Showed That AOC's Baselines Misstated the Need for Current Space

AOC used as the baseline to which it added future space needs current occupied space plus the deficits identified by the local representatives. To test the effect of the problems associated with this method for establishing the baselines, we used 2 alternative methods to develop baselines for the court components in each of the 94 districts. One of these methods used current caseloads to directly determine the level of staffing needed and the associated amount of space required (i.e., the original planning process

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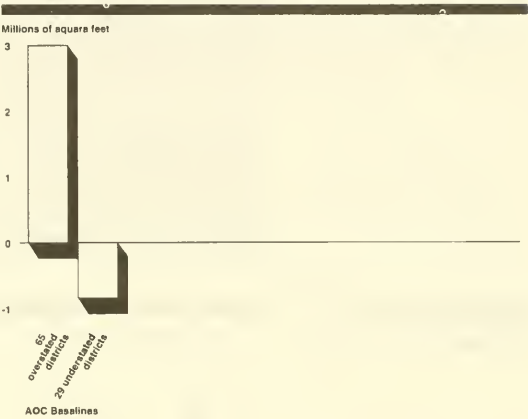
assumption). The other alternative used the current authorized staffing levels to determine space needs (i.e., disregarding current caseloads).

Use of Current Caseload to
Determine Baselines

To develop baselines using current caseloads, we applied AOC's caseload-to-staffing ratios and the Design Guide space allocations, including the 45-percent add-on factor, to the judicial year 1991 caseload data. In this way we developed a baseline for each of the 94 districts that reflected the amount of space required to house the number of staff needed to process current caseloads.

We estimated that AOC's baselines for 65 districts were overstated by an estimated 3,026,968 square feet (see fig. 3.1). In the remaining 29 districts, AOC's baselines were understated by a total of about 841,320 square feet. In net total, AOC's baseline for all 94 districts was overstated by about 2,185,648 square feet when compared to our baseline which was determined directly from current caseloads. Using a cost estimate of \$31 per square foot, we estimated that the annual government cost associated with this excess space would be about \$68 million.

Figure 3.1: Comparison of AOC
Baseline to Baseline Determined by
Current Caseload



Source: GAO calculations.

Appendix II provides a description of the methodology we used to develop this alternative. It also includes a table that shows the difference between AOC's baseline and the amount of space required under this alternative method for each district. Table II.3 also shows the annual government cost associated with the difference identified for each district.

Use of Current Staff to
Determine Baselines

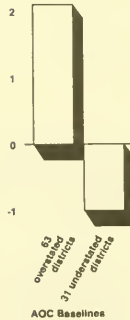
The use of current staff to determine baselines did not conform to AOC's assumption that caseloads define the need for staff, which then determined space requirements. However, this alternative recognized that current staffing levels could exceed the caseload requirements in some districts and, therefore, must be considered when AOC develops long-range plans.

To develop baselines according to current staffing levels, we applied the Design Guide space allocations, including the 45-percent add-on factor, to the current staffing levels. In this way we calculated a baseline for each of the 94 districts that reflected the amount of space required to house the number of staff currently authorized.

Using current staffing to determine the baseline, we estimated that AOC's baselines for 63 districts were overstated by 2,145,477 square feet (see fig. 3.2). In the remaining 31 districts, AOC's baselines were understated by a total of about 1,040,844 square feet. On a net basis, AOC's baselines overstated the need for space by 1,104,633 square feet when compared to baselines based on current staffing. Using a cost estimate of \$31 per square foot, we calculated that the annual government cost associated with this excess space would be about \$34 million.

Figure 3.2: Comparison of AOC Baseline to Baseline Determined by Current Staffing

3 Millions of square feet



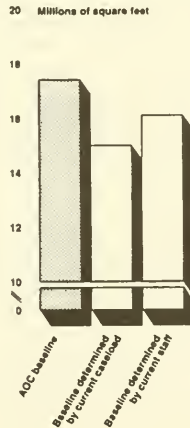
Source: GAO calculations.

Appendix II provides a description of the methodology we used to develop this alternative. It also includes a table that shows for each district the difference between AOC's baseline and the amount of space required under this alternative method. Table II.4 also shows the annual government cost associated with the difference identified for each district.

Comparison of AOC Baseline and Two Alternatives

Figure 3.3 provides a comparison of AOC's national baseline for court components to the baselines that resulted from either of our two alternative methods. AOC's baseline was about 16 percent higher than the baseline we determined on the basis of current caseloads. AOC's baseline was about 8 percent higher than the baseline determined according to the current level of staffing.

Figure 3.3: Nationwide Comparison of
AOC Baseline to Baselines Determined
by Caseload and Current Staff



Source: GAO calculations.

Conclusions

For the AOC long-range planning process, the determination of an appropriate current baseline is essential to the accuracy of the future space estimates. AOC's process did not ensure that the baseline established for each district represented current space needs. First, under AOC's process it was assumed that all authorized staff were needed and, therefore, entitled to space allocations. Second, AOC's planning process did not test the validity of the deficits that were identified by local representatives. Future estimates for a district would be affected by any discrepancy that existed between the baseline and actual current space needs.

Using two alternative methods to compute baselines, we found that AOC's baselines did not equate to current space needs for the court components when we applied the assumption that caseloads define staff needs, which define space needs. Approximately one-third of the districts needed more space to handle their current caseloads or to house their current staff than was allocated under AOC's methodology. The remaining two-thirds of the districts were allocated more space under AOC's plan than either current caseloads or current staff warranted.

Recommendations

We recommend that the Director of AOC revise the long-range planning process to require that baselines be established that reflect AOC's assumptions regarding the relationships between caseloads, staff needs, and space requirements. These revised procedures should include a mechanism for verifying that deficits represent actual unmet space needs.

Agency Comments

AOC stated that it never intended to apply its assumptions regarding the relationships among caseloads, staff, and space to the calculation of existing needs. These assumptions were to be applied only to the determination of how much additional space would be required. AOC stated that its process relies primarily upon the local input for the definition of the baseline (occupied space plus deficits).

We agree with AOC's statement that it did not intend to apply the assumption regarding the relationships among caseloads, staff, and space to the determination of current needs. While we recognize that AOC's intent was to allow the local representatives to establish baselines, we do not agree that this produced results that were sufficiently reliable for use in long-range planning. (See pages 53-54 for a further discussion of this issue). By allowing the local representatives to determine baselines

(occupied space plus deficits) and then applying the caseload-to-personnel ratios and space allocations only when computing additional needs, AOC did not take into account that staff/space may be currently over or under the level warranted by the current caseload. We believe that balance between caseloads and staff/space should be achieved before future needs are added to the baseline. If baselines to which future needs are added are not accurate, then the problem will be compounded over time.

AOC further commented that our entire analysis was weakened because, when we developed our alternative baselines, we used the summarized data in table 1.2 for computing space allocations rather than the actual square footage per personnel/function from the Design Guide. Although we tested the validity of the summarized figures and concluded that there would be no significant differences between the results generated from the two sets of figures, we used the summary figures because AOC used them. If, as AOC stated, this weakened our analysis, their analyses are similarly weakened by the same factor.

AOC reported to us that it has developed an automated system, ANYCOURT, that will allow AOC to generate space needs according to the individual space elements included in the Design Guide, rather than the summary figures. Deficits can be computed by comparing the results generated to the actual space occupied. This system can eliminate the subjectivity that occurs when local representatives identify deficits.

AOC further stated if its planning assumptions are applied to current caseloads, the results will always understate the needs of the courts. Our analyses generated baselines that were higher than those identified by AOC for about one-third of the districts; i.e., the AOC estimates of needs were understated. Overall, we believe unless a consistent set of assumptions are applied at all steps within the planning process the final estimates of needs will be unreliable. Space needs will be overstated for some districts and understated for others.

GSA officials, when we met with them prior to our completion of the draft report, stated that our method for computing baselines could provide a useful means of assessing the current court needs prior to any consideration of future needs. They indicated that they were interested in trying to apply such a procedure.

In its comments AOC differentiated between those deficits that represented official but non-critical deficits (a discrepancy solely between the Design

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Guide and occupied space) and those that were critical for the court's operation. We recognize that GSA makes an assessment of whether there is an immediate need for additional space or alterations to existing space to meet a critical need or whether the need should be satisfied through the long-range process. However, under AOC's long-range planning process all deficits are added to the occupied space to derive the district's baseline without any differentiation between critical and non-critical needs. This ensures that under the long-range plan all deficits will be included in space requests regardless of whether they are official but non-critical or are critical for the court's operation.

AOC Projection Methods Have Not Produced Reliable Estimates

Our analyses showed that AOC's long-range planning process did not produce reliable estimates of future space needs; i.e., if the process were repeated the results produced would be different. We identified three specific problems that contributed to this situation: (1) AOC did not use standard acceptable statistical methods when generating its initial projections of caseloads, (2) local representatives subjectively determined the final staffing and space projections, and (3) the 20- and 30-year projections lacked precision due to problems inherent in making long-range projections.

We compared AOC's final estimates of space needs to estimates we generated using a standard statistical method that allowed us to compute 95 percent confidence levels.¹¹ (See app. II for a discussion of this methodology.) We found that AOC's estimate of future space needs for court components nationally were higher than our estimates by approximately 3.7 million square feet at the end of the 5-year period and by approximately 3.5 million square feet at the 10-year period. AOC's 5-year estimate for court components would result in an annual government cost of about \$716 million; for the 10-year period, the cost would be about \$820 million. On the other hand, our estimates would result in an annual government cost at the 5-year point of about \$603 million and at the 10-year point about \$708 million. Over the 10-year period we estimated that the difference between AOC's and our estimates would be about \$1.1 billion.

In addition, reliability was compromised by the amount of subjectivity that occurred during the caseload estimation process and during the on-site sessions. AOC determined whether the initial caseload estimates were reasonable and then subjectively decided how to adjust the estimates. Also, if the on-site session were replicated with a different set of local representatives, the final space estimates probably would be different.

Moreover, projections that extend 20 and 30 years into the future are useful primarily as indicators of trends. AOC's long-term space projections could be useful primarily to demonstrate that space needs will continue to increase over time; they should not be used to indicate that a particular district will need a certain number of square feet of space in the year 2020.

¹¹This chapter deals solely with the court components because historic workload data are not available for the related agencies.

Initial Caseload Projections Were Not Generated by a Reliable Method

According to the AOC consultant who was responsible for the projection process, he used regression analyses to estimate each of the four types of caseloads. Forty years of historic caseload data were used as the predictor, with the most recent year of caseload data given the greatest weight on the assumption that the future will be more like the recent past than like the distant past.

For each district, three steps were required to produce the estimate for each type of caseload. First, AOC reported that it uses linear and quadratic regression equations, each of which assumes a different historic trend, to generate projections for each type of caseload. If the results of these calculations were arbitrarily determined to be low by either the consultant or by the local representatives, reforecasts were generated using other regression equations.¹² Second, 5-, 10-, 20-, and 30-year projections using each of the regression equations were computed. Third, the average of the estimates was computed for each caseload. (A technical explanation of AOC's projection methodology is provided in app. 1.)

Statistically, the use of different regression models is an appropriate method for determining trends in historic data. The single model is selected that meets the statistical tests for "best fit" to the data and is used to make the projections of future events. This method avoids the common error of assuming that the historic trend is always linear. This is not, however, the way the AOC team used the different models. The AOC team averaged the results from different models to derive the final projection. The averaging of regression results violates acceptable statistical practice and prevents the calculation of confidence intervals, which allow for the computation of the accuracy associated with the predictions.¹³

The Use of Multipliers to Adjust Caseload Estimates Introduced Subjectivity

Until June 1991, the AOC team ended the caseload estimation procedure after computing the average from the regression models. After that AOC examined the results of this procedure to determine whether the estimate met a subjective "reasonableness" criterion. If the estimate looked too low when compared to similar districts, the AOC consultant arbitrarily applied a

¹²The four possible equations include (1) an exponential model, (2) a log transformation on the independent variable, (3) a power curve model, and (4) a log transformation on the dependent variable.

¹³None of the statisticians who are considered within the statistical community to be experts in the use of regression analyses, such as N. Draper and H. Smith in *Applied Regression Analysis*, or F. Mosteller and J. W. Tukey in *Data Analysis and Regression*, make reference to the use of an average estimate from different models to project future events. The primary reason that this technique is not acceptable is that each of the models assumes a different rate of growth, only one of which can approximate the true historic trend.

set of multipliers to the caseload estimates (see table 4.1). Because the multipliers ranged from 1.0 to 1.8, the result of this action could never be a lower number. Appendix II shows the multipliers that were used to generate the caseload projections for each district where the process was completed.

Table 4.1: Multipliers Applied to
Caseload Estimates

Option	Civil cases	Criminal cases	Persons under supervision	Bankruptcy cases
Multiplier #1	1.0	1.0	1.0	1.0
Multiplier #2	1.1	1.2	1.3	1.4
Multiplier #3	1.05	1.1	1.15	1.2
Multiplier #4	1.2	1.4	1.6	1.8

Source: AOC consultant

AOC's use of multipliers did not meet statistical standards for producing reproducible results because the selection of a particular multiplier was not based upon an objective criterion. Given a different individual or a different set of circumstances, the selection would probably be different.

The AOC consultant reported at our final meeting that he no longer applies the multipliers when estimates appear too low. Instead, he makes a reforecast using different regression models. However, he does not use any definitive criteria for his selection of the different regression models. Regardless of the method used to increase the estimates that appear to be too low, the fact that there are no specific selection criteria causes the results to be unreliable. Given a different time or person, it is likely that a different selection would be made.

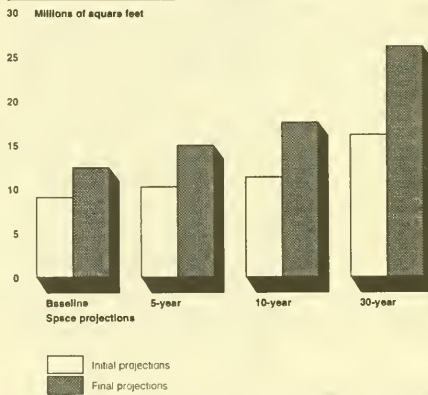
Final Space
Determinations Relied
Primarily Upon
Subjective
Information From
Local Representatives

The final determinations of space requirements that were made following the on-site sessions were significantly higher than the initial projections for the 54 districts included in our analysis. Initial AOC projections showed that space requirements would increase by 13 percent during the first 5-year period, while the final determinations indicated that the increase for this period would be 65 percent (see fig. 4.1). We therefore concluded that the on-site sessions resulted in an increase of 52 percent in space needs for the first 5-year period.

Local involvement may be valuable during the part of the process that deals with current critical needs and problems associated with the space

presently occupied. Our analysis indicated that the local representatives significantly increased the initial long-range estimates, but this was not related to the accuracy of the estimates. AOC did not routinely verify the information provided by the local representatives during the on-site session or as part of the assumption letters that were submitted after the session concluded. As discussed above, under the AOC process the accuracy of the final estimates could not be measured.

Figure 4.1: Comparison of AOC's Initial and Final Space Projections for Court Components



Source: GAO calculations

AOC Process Has Not Produced Reliable Estimates for Related Agencies

Although GSA includes space requirements for related agencies as part of judiciary space,¹⁴ AOC's process was not directly applicable to the estimation of future space needs for these agencies. The estimation of space needs for the related agencies occurred solely at the on-site planning sessions as related agencies' caseloads were not available to AOC.

¹⁴The related agencies occupied about 25 percent of the total space that GSA attributes to the courts. These agencies also accounted for 36 percent of the deficits that were identified by the local representatives.

Even though the U.S. Attorneys maintain caseload data at the district level that could be used as part of AOC's long-range planning process, these data were not routinely available to AOC. With the cooperation of the Executive Office for U.S. Trustees, AOC could develop a method for estimating future space needs that would relate this caseload to that of the bankruptcy courts. For the U.S. Marshals Service, caseloads have a lesser effect on space needs than does the configuration of the buildings occupied because of their responsibility for court security.

20- and 30-Year Projections Exceed the 10 Years Used by GSA to Plan for Space Needs

GSA officials said that their regional offices use only AOC's 10-year projections to support their requests for congressional approval of funds to build new court facilities and to modify existing buildings. Since the actual time required to design and construct a court building is generally less than 10 years, this time period allows adequate time to detect future space needs and reduces the likelihood of the over- or under-acquisition of space by the courts.

AOC decided to make 30-year projections because it said the average life span for court buildings is 30 years. However, AOC agreed that the 20- and 30-year estimates lack the level of precision of estimates for the 5- and 10-year periods. To project 30 years into the future presents particular problems for the judicial system due to (1) changes over time in the caseloads and (2) the fact that caseloads are determined by factors external to the organization. These factors include changes in the economy and, as we previously reported, changes in the indictment patterns of the U.S. Attorneys or changes in the prosecution patterns of investigative agencies.¹⁵

According to AOC, if its estimates of needs are found to be too low in future years, this will be detected by the local representatives and additional space can be built or leased. On the other hand, if the estimates are found to be too high after the space is acquired, AOC said that the space can be leased to other government agencies. However, GSA said that it may be difficult to find other agencies to fill the space, particularly in smaller cities.

¹⁵Federal Criminal Justice System: A Model to Estimate System Workload (GAO/GGD-91-75, April 11, 1991).

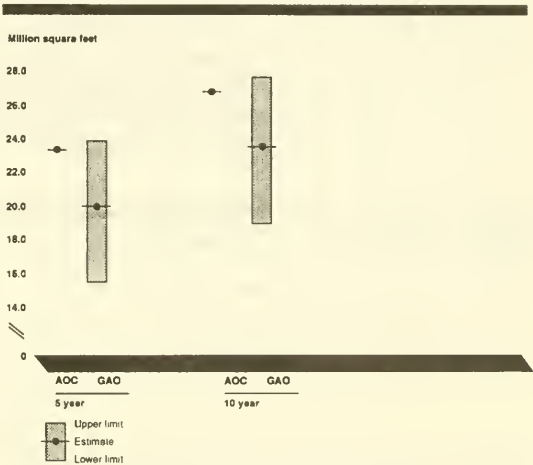
Alternative Method for Projecting Caseloads Could Provide Reliable Estimates

As discussed, the methodology currently used by AOC to project caseloads did not conform to acceptable statistical principles. We compared the results obtained from AOC's methodology to those we generated using a standard statistical procedure to determine the accuracy of its estimates. We used linear equations to make estimates for the criminal caseload and the number of persons under supervision. We used exponential equations for the civil caseload and bankruptcy caseload. We selected these equations because they were the ones that AOC had first used in its long-range planning process, and over time the trendlines demonstrated that they were appropriate. (See app. II for a discussion of this methodology.)

Using the results from our four regression equations, we generated 5- and 10-year estimates for nationwide future space needs and the 95 percent confidence limits.¹⁶ To make these projections we applied the appropriate AOC's caseload-to-personnel ratio for each caseload, the Design Guide space allocations, and the 45 percent add-on factor to the estimated future caseloads. Because we assumed that space needs were directly related to estimates of caseloads, we did not consider deficits as part of our alternative. Figure 4.2 compares our estimates to AOC's projections.

¹⁶As discussed above, 20- and 30-year estimates are sufficiently imprecise that we did not generate them.

Figure 4.2: Estimates of Space Needs
for Court Components Using Standard
Statistical Methods and AOC
Projections



Source: GAO analyses using AOC data.

AOC's 10-year estimate was 0.8 million square feet less than the upper limit of our confidence interval. This can not be interpreted to indicate a similarity to our results due to the methodology used by AOC. Because AOC did not use a statistically acceptable methodology to produce its estimate, its results do not have a statistical meaning. Therefore, AOC's estimates can not be compared to the confidence limits generated by a standard statistical methodology.

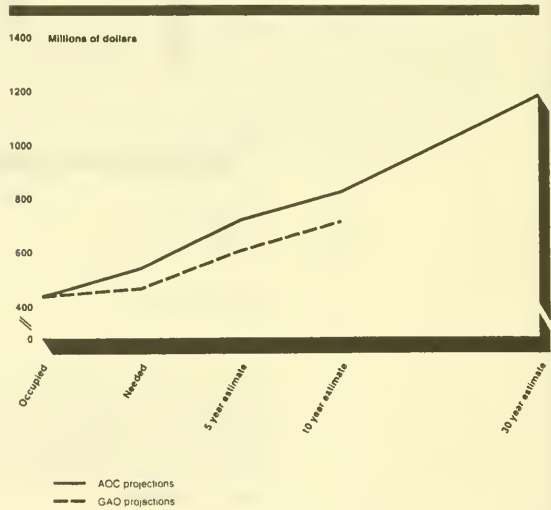
Overall, AOC's projections were approximately 16 percent higher than projections derived from the standard statistical method we used. We found that AOC's projections appeared to overstate space needs for the 10-year period by about 5 million square feet in 76 districts. In the

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remaining 18 districts, AOC's estimates appeared to understate needs by a total of about 1.4 million square feet.

The annual government cost associated with AOC's projections at the 10-year point would be about \$820 million. Under the standard statistical method the corresponding annual government cost would be \$708 million—a difference of \$112 million. Figure 4.3 compares the annual costs in constant dollars associated with our estimates and AOC's projections.

Figure 4.3: Comparison of Annual Costs for AOC Projections and GAO Estimates



Source: GAO analysis of AOC data.

Other Statistical Techniques Warrant Consideration

We chose the procedure we used to make our projections because it provided a statistically acceptable method that used time as the predictor of future caseloads as did the AOC methodology and could provide a valid basis for determining the accuracy of the AOC methodology. We believe that AOC should further explore other potential methodologies for forecasting caseloads before selecting a procedure for use during its ongoing process. More sophisticated procedures, such as multivariate non-linear regression analysis, using additional predictors could yield accurate results with narrower confidence intervals.

Other statistical techniques, such as adaptive filtering or ARMA, auto-regressive moving averages, are well-suited to making estimates when the pattern is not linear. Adaptive filtering is a statistical analysis that uses external variables as predictors of future events. A limitation to the use of adaptive filtering is that useful predictor variables are for the most part not available at the district level. For example, the number of bankruptcy filings may relate to the state of the local economy; however, the geographic areas defined for economic data do not generally correspond to local court jurisdictions. ARMA uses internal patterns within the data to forecast future trends. The use of ARMA requires a high level of sophistication in the application of forecasting methodologies and requires continual monitoring to detect changes in trends.

Conclusions

The process used by AOC to formulate projections of future space needs did not produce reliable results; i.e., the statistical accuracy of the results could not be directly measured, and the same results would not have been produced if the process were repeated. AOC's averaging of the estimates produced from different regression models prevented the calculation of confidence intervals, which would have allowed for the estimation of the statistical accuracy associated with projections.

We used AOC's historic database to calculate caseload projections using a statistically acceptable method. We used a linear equation to estimate the criminal caseload and the number of persons under supervision and used an exponential equation for the civil and bankruptcy caseloads. We selected these equations because they were the ones originally considered by AOC, and the trendlines indicated that they were appropriate. Our analyses showed that AOC's projections of future space needs were higher than our estimates at the 10-year point by about 3.6 million square feet. This would equate to an annual cost of about \$112 million, or about

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\$1.1 billion over the 10-year period, which is GSA's standard planning period.

Because of the subjectivity of AOC's process, the results produced lacked reproducibility. When making its initial projections of caseloads, AOC subjectively determined whether the regression estimate of caseload appeared too low before selecting a multiplier, which would increase the estimate. Also, the local representatives added subjectivity when they determined the final estimates of staffing/space needs for both court components and related agencies.

Recommendations

To improve the reliability of the estimates of future space needs, we recommend that the Director of AOC revise the long-range planning process by

- identifying and using a standard statistical technique that would generate accurate caseload projections with defined confidence intervals,
- reducing the subjectivity of the process by eliminating the use of arbitrarily selected regression models and by verifying the information provided by the local representatives, and
- limiting the time span covered by the projections to 10 years.

Agency Comments

AOC stated that the statistical methodology we used would not generate consistently accurate estimates of long-range space needs. We believe that AOC misunderstood our intent. We do not imply in the report that our method for making caseload projections was the "ideal" procedure, but rather that it provided statistically acceptable results with a definable confidence interval. GSA officials agreed with us that AOC should test other more complex statistical methods for making caseload projections. Many of these methods could include other factors in addition to time that affect caseloads and could produce results having a high level of accuracy over time.

AOC referred to the importance of input from local district representatives as a means of securing data not available elsewhere and to the group dynamics that occur throughout this part of the process. AOC stated that the subjective input from local representatives strengthens the reliability of the planning process over what would be obtained from mathematical procedures. We agree with AOC that qualitative approaches, such as Delphi techniques and focus groups, have been used in other situations to

produce reliable short-term estimates. However, the successful use of these qualitative techniques requires that the participants be experts in the area under consideration and the projection period be limited to 1 or 2 years. For AOC to use qualitative methods successfully, the on-site participants should be knowledgeable regarding space management practices. We noted in the sessions we attended that many of the participants would not qualify as professional experts in the relevant field. Also, qualitative methods are not suited for making 5- and 10-year estimates even if qualified experts are involved. For these reasons, we do not believe that the final estimates of future space needs that are generated on the basis of local input are reliable.

We concur with AOC that during the on-site sessions the information provided by the local representatives was corroborated by the other members of the group. However, verification through group corroboration does not reduce the need for comparison to objective criteria to establish the validity of the information provided. In its comments AOC agreed that if the process were repeated with different individuals, the results would be different. We believe that unless long-range plans are reproducible given similar conditions, the accuracy of the estimates produced lack reliability and should not be used for decisionmaking.

AOC's decision to replace on-site sessions with either surveys of local representatives or conference telephone calls, after initial plans are completed for all districts, may reduce the subjectivity associated with estimating growth in numbers of staff needed to process the caseload. However, regardless of how local input is obtained, AOC should validate, from other sources where possible, changes that local districts propose to the estimates produced through statistical procedures. This is not meant to negate the value associated with local input but rather to ensure the quality of the final estimates.

In its comments AOC stated that 10-year projections are not adequate because the construction of a new facility requires from 7 to 10 years. We based our recommendation that AOC limit its projections to 10 years on an interview with GSA officials who stated that they do not use any of AOC's estimates beyond the 10-year estimate. GSA officials stated that if they need more current information when preparing a prospectus they request revised information from AOC. When discussing our recommendation that projections be limited to the 5- and 10-year time periods, AOC stated that "due to short-sighted planning, some courthouses . . . were out of space before the doors even opened." We believe that this may have occurred

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not because the time span was too short but because the estimates from the AOC long-range planning process were unreliable; i.e., the projections may have been understated in the particular instances cited.

Technical Description of AOC's Process

In this appendix we describe the technical issues relating to AOC's long-range planning process. These issues relate to the categorization of districts and the methodology AOC used to project caseloads.

AOC Method of Categorizing Districts

In order to reflect differences among districts, AOC categorizes districts into four groups (growth models 1 through 4) based upon total caseloads. Growth model 1 includes the slow-growing districts that often spread over large geographic areas and districts that consist of a single city. Growth model 2 includes "typical" districts, where growth is steady and consistent. Growth model 3 includes districts made up of large cities that are heterogeneous in socio-demographic characteristics. Growth model 4 includes districts with the largest and fastest growing caseloads and includes large metropolitan areas.

The growth model becomes the basis for converting estimated future caseloads to staff needs. Within each growth model the required numbers of key personnel—judges, probation and pretrial officers, and public defenders—are determined according to the average caseload-to-staff ratio. Table 1.1 shows the ratios used to differentiate among the growth models.

In general, the districts with smaller caseloads receive a lower ratio of staff to judges than do districts with larger caseloads. On the other hand, districts with smaller caseloads require a lesser increase in caseloads to justify additional judgeships than do larger districts. Because the ratios are computed from the actual data, these allocations reflect the fact that in larger districts staff process more cases than do the same number of staff in a smaller district.

When formulating growth models AOC first calculates the mean for the 94 districts' caseloads using the most recent fiscal year's data. The mean for each of these two groups is then computed. This then creates four groups—two above the original mean and two below. Growth model 4 includes those districts whose total caseloads are in the uppermost category. Growth model 1 includes districts whose total caseloads are in the lowest category. Models 2 and 3 are those nearest the overall mean. We found that for 1992 model 4 included 13 districts, model 3 included 20 districts, model 2 included 29 districts, and model 1 included 32 districts.

Table I.1 shows the districts included in each growth model for 1992. The caseload data included the 1991 judicial year (July 1, 1990, through June 30, 1991).

Table I.1: Growth Model Assignments for 1992

G			
Growth model 4		Growth model 3	
Over 21,718		Between 21,718 and 11,566	
California Central	69,509	Alabama Northern	21,184
Illinois Northern	36,926	Colorado	20,774
New York Southern	35,088	New Jersey	20,762
Georgia Northern	29,230	Michigan Eastern	20,140
Florida Middle	29,016	Pennsylvania Eastern	19,545
California Northern	26,095	Indiana Southern	18,239
Ohio Northern	25,663	Texas Western	18,095
Virginia Eastern	23,851	Florida Southern	18,063
Ohio Southern	23,850	New York Eastern	17,728
Texas Southern	23,677	Washington Western	17,669
Arizona	23,101	Minnesota	17,114
Texas Northern	22,926	Massachusetts	16,516
California Eastern	22,880	Tennessee Western	15,937
		Maryland	15,726
		California Southern	15,616
		Oregon	14,331
		Tennessee Middle	13,216
		Tennessee Eastern	12,948
		Georgia Middle	12,055
		Oklahoma Western	11,890
Growth model 2		Growth model 1	
Between 11,566 and 5,772		Less than 5,722	
Louisiana Eastern	11,336	Oklahoma Northern	5,751
Kansas	10,941	Nebraska	5,716
Missouri Eastern	10,873	Washington Eastern	5,403
Missouri Western	10,546	North Carolina Middle	5,292
Louisiana Western	10,301	North Carolina Western	5,289
Utah	10,091	Illinois Southern	5,168
Indiana Northern	10,032	Mississippi Northern	5,121
Kentucky Western	9,827	Idaho	5,020
Mississippi Southern	9,716	Wisconsin Western	4,802

(continued)

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Technical Description of AOC's Process

Connecticut	9,656	West Virginia Southern	4,739
South Carolina	9,566	Iowa Southern	4,596
Georgia Southern	9,510	Alabama Southern	4,559
Illinois Central	9,049	Florida Northern	4,255
Nevada	9,014	Hawaii	4,021
Wisconsin Eastern	8,877	Arkansas Western	3,658
Kentucky Eastern	8,838	Iowa Northern	3,143
Pennsylvania Western	8,507	Louisiana Middle	3,128
Michigan Western	8,047	Montana	3,113
Arkansas Eastern	7,373	Rhode Island	2,756
Virginia Western	7,370	Maine	2,644
Puerto Rico	7,120	Oklahoma Eastern	2,535
Alabama Middle	7,072	New Hampshire	2,376
North Carolina Eastern	6,994	South Dakota	2,336
Texas Eastern	6,847	West Virginia Northern	2,220
New Mexico	6,521	Alaska	2,180
New York Western	6,396	Wyoming	2,122
District of Columbia	6,331	Delaware	1,968
Pennsylvania Middle	6,217	North Dakota	1,906
New York Northern	5,952	Vermont	1,460
		Virgin Islands	1,240
		Guam	423
		North Mariana Islands	28

Source: AOC listing of districts according to growth model and historic database

AOC Method of Projecting Initial Caseloads

AOC used historic data for 40 years to compute regression models for each of the four caseloads: civil cases commenced, criminal cases commenced, persons under supervision, and bankruptcy filings. For each caseload, linear and quadratic regression models are generated. Each of these models assumes a different caseload distribution and assumes that the distribution will continue into the future. The AOC consultant stated that when either he or the local representatives believe that these estimates are too low, a reforecast is generated. The equation for each of the potential models is shown below.

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Technical Description of AOC's Process

Linear model	$Y = a + bX + e$
Quadratic model	$Y = a + bX^2 + e$
Power model	$Y = a * X^b + e$
Exponential model	$Y = a * bX^2 + e$
Logarithmic transformation on independent variable	$Y = a + b(\ln) X + e$
Logarithmic transformation on dependent variable	$(\ln) Y = a + bX + e$

Where

Y = estimate of caseload
a = intercept of regression line
b = slope of regression line
X = year (transformed 40= most recent year to 1=earliest)
e = error term

The AOC consultant stated that after calculating the regression models, he generated projections for each caseload for 5-, 10-, 20-, and 30-year periods¹⁷ and then averaged the projections for each time period for each caseload.

Each of the terms in a regression equation has an associated standard error term. These error terms allow for the calculation of confidence intervals that indicate at a defined probability level (usually 95 percent) the boundaries within which the true value will occur. As estimates are computed over extended time periods, the confidence interval boundaries increase. This indicates that the accuracy of the estimates declines as the time period is extended.

Because AOC computed average estimates on the basis of the results of different regression models, confidence intervals cannot be calculated. Therefore, the statistical accuracy of AOC's estimates cannot be determined.

In addition to problems relating to the determination of the accuracy of the caseload projections, the reproducibility of the results decreases when AOC interjected subjectivity into the process through the use of the multipliers or adjustment factors. The estimates produced by averaging the regression results were examined by the AOC consultant and a subjective determination of "reasonableness" made. He then arbitrarily decided whether a multiplier factor should be used to increase the

¹⁷Estimates are sometimes omitted for the 20-year period.

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Technical Description of AOC's Process

estimate, Table I.2 shows the multiplier applied to each of the 60 completed districts.

**Table I.2: Multipliers Applied to
Averaged Regression Estimates for 60
Completed Districts**

District	Civil	Criminal	Persons under supervision	Bankruptcy
Alaska	1.0	1.0	1.6	1.0
Alabama Middle	1.0	1.0	1.0	1.0
Alabama Northern	1.0	1.4	1.15	1.0
Arkansas Eastern	1.0	1.0	1.0	1.0
Arkansas Western	1.0	1.0	1.0	1.0
Arizona	1.0	1.0	1.3	1.0
California Central	1.0	1.0	1.0	1.0
California Eastern	1.0	1.0	1.0	1.0
California Northern	1.0	1.2	1.0	1.2
California Southern	1.0	1.0	1.6	1.0
Colorado	1.0	1.2	1.0	1.0
Delaware	1.1	1.1	1.0	1.4
District of Columbia	1.0	1.0	1.0	1.0
Florida Middle	1.0	1.0	1.0	1.0
Florida Northern	1.0	1.2	1.0	1.0
Florida Southern	1.0	1.0	1.0	1.0
Georgia Middle	1.0	1.0	1.0	1.0
Georgia Northern	1.0	1.2	1.15	1.0
Georgia Southern	1.0	1.4	1.3	1.0
Guam	1.2	1.1	1.0	1.8
Hawaii	1.0	1.0	1.0	1.0
Idaho	1.0	1.4	1.0	1.0
Illinois Central	1.0	1.0	1.0	1.0
Illinois Northern	1.0	1.2	1.0	1.0
Kentucky Eastern	1.0	1.0	1.6	1.0
Louisiana Eastern	1.0	1.4	1.0	1.0
Louisiana Western	1.0	1.0	1.0	1.0
Massachusetts	1.0	1.0	1.0	1.0
Michigan Eastern	1.1	1.0	1.0	1.0
Mississippi Northern	1.1	1.2	1.0	1.0
Mississippi Southern	1.1	1.2	1.0	1.0
Missouri Eastern	1.0	1.0	1.0	1.0
Missouri Western	1.0	1.0	1.0	1.0
Montana	1.0	1.0	1.15	1.0

(continued)

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Technical Description of AOC's Process

District	Civil	Criminal	Persons under supervision	Bankruptcy
Nebraska	1.0	1.0	1.0	1.0
Nevada	1.0	1.0	1.0	1.0
New Mexico	1.0	1.0	1.0	1.0
New York Eastern	1.0	1.0	1.0	1.0
New York Western	1.1	1.0	1.0	1.4
North Carolina Western	1.0	1.0	1.0	1.0
North Dakota	1.0	1.1	1.0	1.0
Northern Mariana Islands	1.2	1.4	1.6	1.8
Ohio Northern	1.0	1.0	1.0	1.0
Ohio Southern	1.0	1.0	1.0	1.0
Oklahoma Eastern	1.0	1.0	1.3	1.0
Oregon	1.0	1.0	1.0	1.0
Pennsylvania Eastern	1.0	1.1	1.0	1.0
Pennsylvania Middle	1.0	1.0	1.0	1.0
Pennsylvania Western	1.1	1.0	1.0	1.4
South Carolina	1.05	1.0	1.0	1.0
Tennessee Western	1.0	1.2	1.0	1.0
Texas Eastern	1.0	1.0	1.0	1.0
Texas Northern	1.0	1.0	1.0	1.0
Texas Southern	1.0	1.0	1.0	1.0
Texas Western	1.0	1.0	1.15	1.0
Utah	1.0	1.0	1.0	1.0
Washington Eastern	1.0	1.0	1.0	1.0
Washington Western	1.0	1.0	1.0	1.0
West Virginia Southern	1.0	1.0	1.0	1.0
Wyoming	1.0	1.0	1.0	1.0

Source: AOC consultant

Reliability from the statistical perspective refers to the probability that given identical data, the same results will occur regardless of when the calculations are made or who makes them. Because there were no established guidelines for the AOC consultant to follow in selecting a multiplier, there was no assurance that the process would produce consistent results. Also, because local representatives were not selected on the basis of defined criteria, if different individuals were selected to represent any of the components, the final estimates of future staff needs probably would be different.

Technical Description of GAO's Analyses

In this appendix we discuss the methods we used to (1) compute an estimated annual government cost per square foot for court space, (2) generalize the findings from the 54 districts for which complete data were available to the total 94 districts, (3) develop baselines using two alternative methods, and (4) estimate future caseloads using a statistically acceptable methodology.

Method Used to Estimate the Cost per Square Foot for Court Space

To determine the cost of court space on a square footage basis, we estimated the government's average yearly cost for court space during fiscal years 1988 through 1992 and then divided by the average square footage amount of space occupied during the same 5-year period. Using this approach, we estimated the annual cost per square foot for court space at about \$31.

Determining the Annual Space Costs of the Courts

GSA's costs of acquiring and maintaining space for the courts include (1) capital projects to satisfy the courts' expansion requirements and (2) operation and maintenance of existing court space. The judiciary makes two types of payments to GSA for its facilities: (1) rent payments for normal real property operations and (2) reimbursable payments for above-standard alterations to court facilities. To determine the total costs for judiciary space, we added GSA's capital investment and operating costs for court space to the courts' reimbursable payments for space alterations.

As shown in table II.1, between fiscal years 1988 and 1992, GSA budgeted about \$1.3 billion to meet the capital investment needs of the courts and about \$707 million for operation and maintenance of existing court space. According to estimates provided by AOC officials, the courts' reimbursable payments for above-standard alterations during the same 5-year period totaled about \$232 million. Using the yearly average of GSA's capital and operating costs and the courts' reimbursable payments, we estimated that the government's total court facilities costs averaged about \$447 million per year during the 5-year budget period.

Appendix II
Technical Description of GAO's Analyses

Table II.1: Estimated Annual Facilities
Costs for the Courts

		Total costs 1988-1992 (in millions)	Annual average cost (in millions)
GSA's costs	Capital investment	\$1,300	\$260
	Operations and maintenance	707	141
Courts' costs	Reimbursable payments	232	46
Total		2,239	447

Source: GSA Capital and Operating Budget (fiscal years 1988-1992) and AOC data

Estimating the Per-Square-Foot Cost of Court Space

After estimating the government's average annual cost for court space at about \$447 million, we converted this total cost to a cost per square foot. According to an AOC official, the average annual amount of court space during fiscal years 1988 through 1992 was about 14.0 million square feet. By dividing the estimated annual court space cost by the total square footage of the courts, we estimated the annual cost per square foot for court space to be about \$31.

Procedures Used to Generalize to the Universe of 94 Districts

The AOC team had completed long-range plans for 60 of the 94 districts by September 1, 1992. However, the data available for 6 of the 60 were not adequate for our analyses. Table II.2 shows the current space and AOC's estimated future space needs for the 54 districts.

Appendix II
Technical Description of GAO's Analyses

Table II.2: Current and Future Space Needs for 54 Districts Including Both Court and Related Agencies*

District	Current space	5-year estimate	10-year estimate	20-year estimate	30-year estimate
Alaska	113,195	191,784	232,289	289,300	349,017
Alabama Middle	87,054	148,923	183,565	221,028	258,489
Alabama Northern	268,505	426,845	468,273	564,623	650,870
Arkansas Eastern	149,639	244,381	278,799	331,553	384,484
Arkansas Western	86,165	145,106	160,238	191,712	215,903
Arizona	333,992	567,023	700,527	853,714	1,023,071
California Central	702,495	1,373,107	1,729,062	2,339,485	2,945,884
California Northern	529,712	743,141	864,308	1,096,825	1,382,634
California Southern	242,323	397,891	491,581	664,209	844,900
Colorado	233,411	326,855	404,965	516,946	650,406
Delaware	92,003	177,909	204,982	242,842	272,947
Florida Middle	405,910	701,315	871,179	1,081,257	1,390,453
Florida Northern	121,740	260,257	315,173	408,980	489,852
Georgia Middle	119,593	233,649	267,320	330,216	388,496
Georgia Northern	424,164	731,272	973,554	1,252,141	1,493,996
Georgia Southern	113,081	190,034	241,230	338,075	483,966
Guam	21,299	47,022	50,629	66,872	83,121
Hawaii	90,120	143,170	190,837	266,207	341,573
Idaho	77,750	188,556	231,833	289,069	344,476
Illinois Central	129,402	199,691	250,244	309,296	373,158
Illinois Northern	560,480	898,849	1,040,316	1,256,245	1,487,117
Kentucky Eastern	151,532	245,541	292,500	354,505	427,717
Louisiana Eastern	437,692	581,425	658,628	776,369	903,009
Louisiana Western	195,927	239,762	260,322	331,905	403,487
Michigan Eastern	336,049	676,697	758,784	893,716	1,048,620
Mississippi Northern	98,445	194,916	231,497	265,901	318,763
Mississippi Southern	163,708	272,060	321,170	442,586	509,417
Missouri Eastern	224,366	555,819	646,418	825,735	1,005,041
Missouri Western	212,966	376,372	440,899	550,977	650,957
Montana	105,122	200,646	223,794	262,724	281,260
Nebraska	70,626	132,441	169,171	217,871	266,571
Nevada	199,247	393,967	467,695	572,317	673,192
New Mexico	187,856	213,644	269,119	338,507	407,894
New York Eastern	307,497	641,429	769,249	966,825	1,164,400
New York Western	152,524	330,873	372,722	441,835	506,915
North Dakota	77,170	127,349	160,352	175,784	184,898

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District	Current space	5-year estimate	10-year estimate	20-year estimate	30-year estimate
Northern Mariana Is	18,951	26,845	29,498	42,529	46,699
Ohio Northern	278,839	493,660	598,130	738,341	878,537
Ohio Southern	324,224	449,728	511,965	635,485	758,997
Oklahoma Eastern	58,550	90,587	113,234	126,296	171,453
Oregon	185,150	352,466	462,446	635,033	807,514
Pennsylvania Eastern	515,443	780,455	903,957	1,055,176	1,229,990
Pennsylvania Middle	109,743	272,696	308,843	375,740	435,196
Pennsylvania Western	231,496	404,702	447,745	521,561	590,154
South Carolina	263,907	478,233	533,739	631,044	729,462
Tennessee Western	111,383	234,025	285,350	375,555	455,584
Texas Eastern	252,045	380,846	434,919	515,591	596,432
Texas Northern	332,153	589,016	679,581	847,160	1,082,230
Texas Southern	456,563	594,198	670,228	835,543	1,000,858
Texas Western	347,001	575,127	702,294	836,958	1,013,188
Utah	147,033	213,726	261,165	326,839	416,780
Washington Eastern	111,410	203,981	253,572	311,067	358,563
West Virginia Southern	126,463	188,988	209,763	240,073	270,383
Wyoming	78,190	131,968	147,283	177,905	209,589
Total	11,771,304	19,980,968	23,746,936	29,556,046	35,658,563

*Where arithmetic errors were found in AOC's computations, these errors were corrected and the correct number shown in the table

Source: GAO derived from AOC's long-range facility plans

To project to the universe of 94 districts, we used data from the 54 districts. The projection of findings from those completed districts to the universe required that we assume that there were no consistent differences between the two groups of districts on the characteristics that were relevant to our analyses. While we recognize that AOC has completed more of the larger districts than it has of the smaller, we assumed that the rate of growth for the remaining districts would be similar.

Projection of Deficits

In order to compute the estimated deficits for those districts where the process was not completed, we totaled the space occupied and the deficits within the 54 districts where the process was completed and then divided the deficits by the space occupied. The results represented the actual percentage for deficits. Deficits averaged 23.98 percent for court

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components and 35.68 percent for related agencies. By multiplying the space occupied in each of the 40 remaining districts by these percentages, we obtained an estimate of the deficits for each of these districts.

**Projection of Estimates for
5-, 10-, 20-, and 30-Year
Periods**

We totaled current occupied space separately for the 54 and the 40 districts. We also totaled the 5-, 10-, 20-, and 30-year estimates for the 54 districts. By dividing each of these totaled estimates by the current total space occupied, we were able to determine the expected rate of increase. We then multiplied the current space occupied in each of the 40 districts by the expected rate of increase to obtain projections for each of the time periods.

**Methodology Used to
Develop Alternative
Baselines**

In order to compute alternative baselines, we used current authorized staff as determined by AOC during the on-site sessions for the 54 districts for which complete data was available. For the remaining 40 districts we used the data contained in AOC's personnel database, which reflect current authorized staff. We used AOC's historic database to obtain information on caseloads for 1991.

**Baseline Determined by
Caseloads**

Step 1: For each district, we applied the appropriate caseload-to-staff ratio from table 1.1 to the relevant caseload. For example, if a district's civil plus criminal caseload was 2,978 and the district was in growth model 2, we divided 2,978 by 426. Therefore, we could conclude that the district needed a total of seven district court judges to process its civil and criminal caseload. Using the relevant caseload-to-staff ratios, we performed similar computations for the remaining key personnel—bankruptcy court judges, probation and pretrial officers, and public defenders.

Step 2: We then applied the ratios of key personnel to other staff that are shown in table 1.1. For example, growth model 2 provides a ratio of 0.5 magistrates for each district court judge; for the seven district court judges in the example above, four magistrates would be needed in the district court to assist the judges. By applying a similar method we were able to determine according to each personnel classification the number of staff that were needed to process the different types of caseloads.

Step 3: We applied the Design Guide space allocations shown in table 1.2 to the estimated staffing numbers to determine the associated space

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requirement. For the example shown above, the seven district court judges would be allocated 43,015 square feet and the four magistrates would receive 16,780. In addition, we included senior judges and support staff in our calculations for district courts. We calculated space needs for the other court components using a similar method.

Step 4: After calculating the allocated square feet for each personnel classification within each court component, we added the 45-percent add-on factor. When totalled, the final calculation provided a baseline for each district that reflected the actual amount of space needed to process the current caseloads based upon AOC's own space allocations.

This alternative method for determining the baselines is based upon the assumption that caseload should form the basis for staff and space decisions. While excess staff and/or space may exist currently and cannot be readily reduced, additional space in the form of deficits should not be requested until caseload increases to the point that more staff is warranted.

The results of this analysis are shown in table II.3. Missouri Eastern is an example of 1 of the 65 districts where AOC's baseline is overstated. The Missouri Eastern district currently occupies 132,924 square feet of space and reported a deficit of 197,105. AOC's baseline, therefore, would be 330,029 square feet. However, on the basis of the 1991 caseload for this district, only 168,583 square feet are needed to house the staff needed to process the caseload. Thus, AOC's baseline for Missouri Eastern is overstated by 161,446 square feet.

On the other hand, the Georgia Middle district is an example of 1 of the 29 districts where AOC's baseline is understated. The Georgia Middle district occupies 85,308 square feet of space and reported a deficit of 20,535. On the basis of the 1991 caseload for this district, 177,868 square feet are needed to house the staff needed to process the caseload. Thus, AOC's baseline for Georgia Middle is understated by 72,025 square feet.

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Table II.3: Disparity Between AOC Baselines and Baselines Derived From Current Caseloads

Districts	Occupied space ^a	Deficits	Needs based on caseloads	Disparity ^c	Annual cost associated with disparity ^c
Alabama Middle ^b	66,550	15,727	113,680	(31,403)	\$(973,490)
Alabama Northern ^b	226,371	30,316	208,725	47,962	1,486,822
Alabama Southern	85,934	20,562	82,525	23,971	743,102
Alaska ^b	90,370	26,640	50,260	66,750	2,069,241
Arizona ^b	252,927	30,586	245,072	38,441	1,191,659
Arkansas Eastern ^b	123,507	20,923	126,899	17,531	543,463
Arkansas Western ^b	70,827	6,910	69,902	7,835	242,898
California Central ^b	538,570	135,454	717,759	(43,735)	(1,355,778)
California Eastern ^b	294,747	70,526	208,168	157,105	4,870,250
California Northern ^b	410,027	38,324	311,255	137,096	4,249,974
California Southern ^b	153,353	18,040	209,416	(38,023)	(1,178,716)
Colorado ^b	140,860	44,935	172,146	13,649	423,104
Connecticut	109,691	26,246	148,356	(12,419)	(384,983)
Delaware ^b	65,001	42,326	55,794	51,533	1,597,519
District of Columbia ^b	214,362	61,799	166,672	109,489	3,394,155
Florida Middle ^b	292,729	7,541	333,506	(33,236)	(1,030,314)
Florida Northern ^b	77,183	34,820	91,110	20,893	647,694
Florida Southern ^b	342,455	81,941	336,829	87,567	2,714,584
Georgia Middle ^b	85,308	20,535	177,868	(72,025)	(2,232,790)
Georgia Northern ^b	238,243	174,293	277,548	134,988	4,184,630
Georgia Southern ^b	88,129	9,595	119,392	(21,668)	(671,705)
Guam ^b	12,957	8,802	12,365	9,394	291,201
Hawaii ^b	65,025	19,710	146,602	(61,867)	(1,917,863)
Idaho ^b	55,120	70,631	55,504	70,247	2,177,649
Illinois Central ^b	91,383	9,450	114,105	(13,272)	(411,433)
Illinois Northern	371,874	218,315	486,970	103,219	3,199,787
Illinois Southern	80,958	19,371	93,725	6,604	204,722
Indiana Northern ^b	123,954	29,659	107,720	45,893	1,422,675
Indiana Southern	147,667	35,333	165,972	17,028	527,856
Iowa Northern	66,285	15,860	51,944	30,201	936,246
Iowa Southern	57,503	13,759	79,813	(8,551)	(265,091)
Kansas	148,847	35,615	133,237	51,225	1,587,974
Kentucky Eastern ^b	115,240	36,539	120,428	31,351	971,885
Kentucky Western	101,321	24,244	117,414	8,151	252,681
Louisiana Eastern ^b	278,733	118,954	225,975	171,712	5,323,058

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Districts	Occupied space ^a	Deficits	Needs based on caseloads	Disparity ^c	Annual cost associated with disparity ^c
Louisiana Middle	43,154	10,326	75,371	(21,891)	(678,634)
Louisiana Western ^b	142,943	15,090	147,456	10,577	327,886
Maine	46,792	11,196	56,126	1,862	57,726
Maryland	233,239	55,808	237,383	51,664	1,601,573
Massachusetts ^b	205,737	60,074	223,344	42,467	1,316,483
Michigan Eastern ^b	260,030	127,613	310,667	76,976	2,386,244
Michigan Western	100,832	24,127	123,635	1,324	41,031
Minnesota	191,549	45,833	168,489	68,893	2,135,671
Mississippi Northern ^b	79,989	24,926	79,549	25,366	786,350
Mississippi Southern ^b	126,659	30,587	116,865	40,381	1,251,818
Missouri Eastern ^b	132,924	197,105	168,583	161,446	5,004,811
Missouri Western ^b	168,266	21,550	166,848	22,968	712,003
Montana ^b	72,197	30,818	64,950	38,065	1,180,020
Nebraska ^b	57,192	22,195	93,460	(14,073)	(436,249)
Nevada ^b	154,621	75,071	143,379	86,313	2,675,688
New Hampshire	41,659	9,968	53,955	(2,328)	(72,183)
New Jersey	127,687	30,552	341,472	(183,233)	(5,680,238)
New Mexico ^b	137,378	15,602	117,834	35,146	1,089,523
New York Eastern ^b	237,042	55,088	316,267	(24,137)	(748,244)
New York Northern	93,917	22,472	114,299	2,090	64,785
New York Southern	275,103	77,829	408,037	(55,105)	(1,708,254)
New York Western ^b	103,314	77,456	108,690	72,080	2,234,472
North Carolina Eastern	127,452	30,496	149,745	8,203	254,278
North Carolina Middle	90,084	21,555	78,390	33,249	1,030,734
North Carolina Western ^b	71,778	17,175	94,220	(5,267)	(163,278)
North Dakota ^b	56,960	22,700	44,590	35,070	1,087,178
North Mariana Islands ^b	14,844	1,200	15,868	176	5,442
Ohio Northern ^b	209,801	33,956	278,008	(34,251)	(1,061,768)
Ohio Southern ^b	170,131	151,132	211,824	109,439	3,392,594
Oklahoma Eastern ^b	44,817	1,800	49,184	(2,567)	(79,583)
Oklahoma Northern	91,554	21,907	82,598	30,863	956,738
Oklahoma Western	90,862	21,741	139,208	(26,605)	(824,769)
Oregon ^b	145,370	26,005	164,374	7,001	217,016
Pennsylvania Eastern ^b	320,525	138,306	395,903	62,928	1,950,775
Pennsylvania Middle ^b	78,578	73,334	124,680	27,232	844,192
Pennsylvania Western ^b	184,531	48,269	172,080	60,720	1,882,320
Puerto Rico	114,646	27,432	123,106	18,972	588,133

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Districts	Occupied space ^a	Deficits	Needs based on caseloads	Disparity ^c	Annual cost associated with disparity ^c
Rhode Island	46,065	11,022	58,473	(1,386)	(42,974)
South Carolina ^b	199,907	98,875	209,236	89,546	2,775,917
South Dakota	66,800	15,984	46,123	36,661	1,136,496
Tennessee Eastern	97,260	23,272	139,332	(18,800)	(582,811)
Tennessee Middle	90,405	21,632	128,019	(15,982)	(495,456)
Tennessee Western ^b	84,394	45,059	143,165	(13,712)	(425,073)
Texas Eastern ^b	201,365	10,530	158,581	53,314	1,652,728
Texas Northern ^b	241,017	45,498	292,332	(5,817)	(180,332)
Texas Southern ^b	362,569	36,155	380,040	18,684	579,210
Texas Western ^b	258,276	40,959	256,177	43,058	1,334,811
Utah ^b	117,110	7,970	97,752	27,328	847,158
Vermont	49,998	11,963	29,810	32,151	996,685
Virgin Islands	32,980	7,891	52,824	(11,953)	(370,554)
Virginia Eastern	226,209	67,637	341,685	(47,839)	(1,483,004)
Virginia Western	114,868	27,485	124,299	18,054	559,672
Washington Eastern ^b	72,220	41,565	80,439	33,346	1,033,718
Washington Western ^b	185,880	44,477	196,932	33,425	1,036,162
West Virginia Northern	42,389	10,143	44,148	8,384	259,906
West Virginia Southern ^b	95,676	22,893	99,203	19,366	600,343
Wisconsin Eastern	70,316	16,825	100,323	(13,182)	(408,629)
Wisconsin Western	57,246	13,698	77,935	(6,991)	(216,728)
Wyoming ^b	57,150	0	34,798	22,352	692,899

^aOccupied space source used GSA facilities data and deficits are GAO estimates

^bPlans have been completed for these districts

^cNumbers shown in () represent understatements under AOC's process

Source: GAO calculations based on AOC facility plans

Baseline Determined by Staff Levels

In order to formulate a baseline that was based upon current staff levels, we began our calculations with step 3 above using current rather than estimated staff. Under this method we assumed that current staffing levels reflect actual need. The results of this analysis are provided in table II.4.

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Table II.4: Disparity Between AOC Baselines and Baselines Determined From Current Staff Levels

Districts	Occupied space	Deficits	Needed space based on staff	Disparity ^a	Annual cost associated with disparity ^a
Alabama Middle ^b	66,550	15,727	106,611	(24,334)	\$(754,354)
Alabama Northern ^b	226,371	30,316	218,718	37,969	1,177,039
Alabama Southern	85,934	20,562	106,988	(492)	(15,252)
Alaska ^a	90,370	26,640	82,251	34,759	1,077,529
Arizona ^b	252,927	30,586	276,218	7,295	226,145
Arkansas Eastern ^b	123,507	20,923	127,600	16,830	521,730
Arkansas Western ^b	70,827	6,910	44,472	33,265	1,031,215
California Central ^b	538,570	135,454	700,212	(26,188)	(811,828)
California Eastern ^b	294,747	70,526	250,749	114,524	3,550,244
California Northern ^b	410,027	38,324	397,452	50,899	1,577,869
California Southern ^b	153,353	18,040	241,055	(69,662)	(2,159,522)
Colorado ^b	140,860	44,935	242,157	(56,362)	(1,747,222)
Connecticut	109,691	26,246	160,414	(24,477)	(758,787)
Delaware ^b	65,001	42,326	99,833	7,494	232,314
District of Columbia ^b	214,362	61,799	325,924	(49,763)	(1,542,653)
Florida Middle ^b	292,729	7,541	264,458	35,812	1,110,172
Florida Northern ^b	77,183	34,820	90,806	21,197	657,107
Florida Southern ^b	342,455	81,941	389,245	35,151	1,089,681
Georgia Middle ^b	85,308	20,535	82,766	23,077	715,387
Georgia Northern ^b	238,243	174,293	278,538	133,998	4,153,938
Georgia Southern ^b	88,129	9,595	96,309	1,415	43,865
Guam ^b	12,957	8,802	12,680	9,079	281,449
Hawaii ^b	65,025	19,710	92,691	(7,956)	(246,636)
Idaho ^b	55,120	70,631	75,937	49,814	1,544,234
Illinois Central ^b	91,383	9,450	108,344	(7,511)	(232,841)
Illinois Northern	371,874	218,315	502,324	87,865	2,723,815
Illinois Southern	80,958	19,371	71,471	28,858	894,598
Indiana Northern ^b	123,954	29,659	122,511	31,102	964,162
Indiana Southern	147,667	35,333	152,504	30,496	945,376
Iowa Northern	66,285	15,860	57,739	24,406	756,586
Iowa Southern	57,503	13,759	88,334	(17,072)	(529,232)
Kansas	148,847	35,615	193,590	(9,128)	(282,968)
Kentucky Eastern ^b	115,240	36,539	116,943	34,836	1,079,916
Kentucky Western	101,321	24,244	111,186	14,379	445,749
Louisiana Eastern ^b	278,733	118,954	250,741	146,946	4,555,326

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Districts	Occupied space	Deficits	Needed space based on staff	Disparity ^a	Annual cost associated with disparity ^a
Louisiana Middle	43,154	10,326	58,247	(4,767)	(147,777)
Louisiana Western ^b	142,943	15,090	198,389	(40,356)	(1,251,036)
Maine	46,792	11,196	72,710	(14,722)	(456,382)
Maryland	233,239	55,808	294,234	(5,187)	(160,797)
Massachusetts ^b	205,737	60,074	274,072	(8,261)	(256,091)
Michigan Eastern ^b	260,030	127,613	355,323	32,320	1,001,920
Michigan Western	100,832	24,127	120,974	3,985	123,535
Minnesota	191,549	45,833	193,039	44,343	1,374,633
Mississippi Northern ^b	79,989	24,926	63,720	41,195	1,277,045
Mississippi Southern ^b	126,659	30,587	128,934	28,312	877,672
Missouri Eastern ^b	132,924	197,105	185,934	144,095	4,466,945
Missouri Western ^b	168,266	21,550	165,184	24,632	763,592
Montana ^b	72,197	30,818	85,485	17,530	543,430
Nebraska ^b	57,192	22,195	85,536	(6,149)	(190,619)
Nevada ^b	154,621	75,071	148,596	81,096	2,513,976
New Hampshire	41,659	9,968	54,868	(3,241)	(100,471)
New Jersey	127,687	30,552	353,539	(195,300)	(6,054,300)
New Mexico ^b	137,378	15,602	124,048	28,932	896,892
New York Eastern ^b	237,042	55,088	293,067	(937)	(29,047)
New York Northern	93,917	22,472	117,124	(735)	(22,785)
New York Southern	275,103	77,829	642,807	(289,875)	(8,986,125)
New York Western ^b	103,314	77,456	123,439	57,331	1,777,261
North Carolina Eastern	127,452	30,496	110,454	47,494	1,472,314
North Carolina Middle	90,084	21,555	104,494	7,145	221,495
North Carolina Western ^b	71,778	17,175	98,702	(9,749)	(302,219)
North Dakota ^b	56,960	22,700	66,229	13,431	416,361
North Mariana Islands ^b	14,844	1,200	9,889	6,155	190,805
Ohio Northern ^b	209,801	33,956	297,845	(54,088)	(1,676,728)
Ohio Southern ^b	170,131	151,132	213,708	107,555	3,334,205
Oklahoma Eastern ^b	44,817	1,800	29,522	17,095	529,945
Oklahoma Northern	91,554	21,907	80,910	32,551	1,009,081
Oklahoma Western	90,862	21,741	151,619	(39,016)	(1,209,496)
Oregon ^b	145,370	26,005	174,950	(3,575)	(110,825)
Pennsylvania Eastern ^b	320,525	138,306	469,960	(11,129)	(344,999)
Pennsylvania Middle ^b	78,578	73,334	149,676	2,236	69,316
Pennsylvania Western ^b	184,531	48,269	209,337	23,463	727,353
Puerto Rico	114,646	27,432	130,181	11,897	368,807

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Districts	Occupied space	Deficits	Needed space based on staff	Disparity*	Annual cost associated with disparity*
Rhode Island	46,065	11,022	65,083	(7,996)	(247,876)
South Carolina ^b	199,907	98,875	207,800	90,982	2,820,442
South Dakota	66,800	15,984	73,776	9,008	279,248
Tennessee Eastern	97,260	23,272	124,780	(4,248)	(131,688)
Tennessee Middle	90,405	21,632	96,353	15,684	486,204
Tennessee Western ^b	84,394	45,059	136,293	(6,840)	(212,040)
Texas Eastern ^b	201,365	10,530	145,181	66,714	2,068,134
Texas Northern ^b	241,017	45,498	286,114	401	12,431
Texas Southern ^b	362,569	36,155	380,444	18,280	566,680
Texas Western ^b	258,276	40,959	292,345	6,890	213,590
Utah ^b	117,110	7,970	117,378	7,702	238,762
Vermont	49,998	11,963	60,625	1,336	41,416
Virgin Islands	32,980	7,891	35,830	5,041	156,271
Virginia Eastern	226,209	67,637	274,935	18,911	586,241
Virginia Western	114,868	27,485	114,876	27,477	851,787
Washington Eastern ^b	72,220	41,565	102,624	11,161	345,991
Washington Western ^b	185,880	44,477	193,887	36,470	1,130,570
West Virginia Northern	42,389	10,143	51,113	1,419	43,989
West Virginia Southern ^b	95,676	22,893	104,270	14,299	443,269
Wisconsin Eastern	70,316	16,825	128,869	(41,728)	(1,293,568)
Wisconsin Western	57,246	13,698	51,004	19,940	618,140
Wyoming ^b	57,150	0	47,647	9,503	294,593

*Numbers shown in () represent understatements by AOC's process

^bPlans have been completed for these districts

Source: GAO calculations using AOC facilities plans and personnel database.

Methodology Used to Project Caseloads

We used linear equations to project the criminal caseload and the number of persons under supervision and used exponential equations to project the civil and bankruptcy caseloads. We selected these equations for three reasons: (1) they were simple, (2) they were the ones that AOC had first used in its long-range planning process, and (3) the trendlines demonstrated that they were appropriate.

After projecting the four types of caseloads we applied the AOC caseload-to-staff ratios and the Design Guide to derive space needs for the

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5- and 10-year periods. Our projections indicated that at the 5-year period the court components would need 19.4 million square feet of space to house the staff that would be needed to process the caseloads. At the 10-year period 22.9 million square feet would be needed.

In order to estimate the potential accuracy of our estimates we generated confidence intervals at the 95-percent level. This enabled us to state with 95-percent confidence that the true value at the 5- and 10-year points would fall between defined limits. At the 5-year period we can be 95-percent certain that the true space need nationally will be somewhere between 15.4 and 23.5 million square feet. At the 10-year period we can be 95-percent certain that true space needs will fall between 18.5 and 27.2 million square feet. Table II.5 shows the 5- and 10-year space projections for each of the 94 districts and the associated 95-percent confidence interval.¹⁸

Table II.5: Caseload Projections Using a Standard Statistical Procedure

Districts	5-Year			10-Year		
	Estimate	Confidence interval lower limit	Confidence interval upper limit	Estimate	Confidence interval lower limit	Confidence interval upper limit
Alabama Middle	140,092	119,360	160,824	167,580	145,102	190,059
Alabama Northern	259,011	205,884	312,138	305,039	247,419	362,659
Alabama Southern	112,112	88,360	135,864	131,993	106,317	157,668
Alaska	71,037	55,776	86,299	84,655	68,114	101,196
Arizona	277,605	195,437	359,773	328,382	240,664	416,099
Arkansas Eastern	184,167	159,550	208,784	222,667	196,002	249,332
Arkansas Western	88,958	73,595	104,321	106,784	90,153	123,415
California Central	911,540	711,248	1,111,831	1,097,008	875,873	1,318,142
California Eastern	253,439	193,796	313,082	302,936	237,770	368,102
California Northern	503,635	391,273	615,997	594,819	473,047	716,591
California Southern	165,907	19,852	311,961	162,769	5,924	319,614
Colorado	231,365	191,542	271,189	276,469	233,327	319,612
Connecticut	177,771	148,926	206,616	212,199	180,958	243,440
Delaware	67,960	57,489	78,430	81,478	70,206	92,750
District of Columbia	390,341	315,112	465,569	410,237	335,008	485,465
Florida Middle	389,302	313,122	465,481	468,881	385,470	552,291
Florida Northern	108,813	90,876	126,750	129,885	110,601	149,170

(continued)

¹⁸The caseload estimates produced from the regression analyses for the District of California Southern at the 10-year point were negative. This produced a set of confidence intervals that appear to be unreasonable. This was the only district where the caseload estimates were negative.

Appendix II
Technical Description of GAO's Analyses

Districts	5-Year			10-Year		
	Estimate	Confidence interval lower limit	Confidence interval upper limit	Estimate	Confidence interval lower limit	Confidence interval upper limit
Florida Southern	387,260	274,773	499,746	452,575	331,289	573,862
Georgia Middle	175,775	127,409	224,142	204,605	153,312	255,899
Georgia Northern	336,654	271,751	401,557	402,202	331,872	472,533
Georgia Southern	130,318	90,492	170,144	153,462	111,190	195,734
Guam	13,336	4,850	21,823	14,231	5,105	23,358
Hawaii	206,375	142,073	270,677	242,178	174,354	310,001
Idaho	84,165	69,491	98,838	100,347	84,477	116,217
Illinois Central	147,621	123,363	171,878	173,678	150,170	197,186
Illinois Northern	681,642	576,105	787,179	806,857	694,862	918,853
Illinois Southern	120,535	93,790	147,281	141,058	113,398	168,717
Indiana Northern	158,406	128,708	188,104	187,537	156,467	218,606
Indiana Southern	48,505	40,273	56,736	56,932	48,120	65,745
Iowa Northern	75,483	62,137	88,829	89,795	75,341	104,250
Iowa Southern	121,249	97,946	144,552	145,885	120,616	171,154
Kansas	173,205	145,815	200,595	200,908	171,323	230,494
Kentucky Eastern	145,644	114,399	176,889	173,053	139,264	206,842
Kentucky Western	154,857	129,032	180,681	181,692	153,859	209,525
Louisiana Middle	104,001	73,600	134,403	127,403	93,268	161,538
Louisiana Eastern	375,629	314,401	436,858	442,815	376,433	509,198
Louisiana Western	219,716	179,601	259,831	263,410	220,183	306,636
Maine	66,744	49,729	83,759	77,993	59,533	96,452
Maryland	338,329	276,515	400,142	401,764	335,286	468,241
Massachusetts	266,941	195,557	338,325	310,816	233,217	388,414
Michigan Eastern	468,920	361,521	576,320	556,899	441,006	672,792
Michigan Western	177,731	144,529	210,933	214,370	178,346	250,394
Minnesota	210,633	155,434	265,832	249,192	189,283	309,100
Mississippi Northern	102,726	81,659	123,792	123,548	100,853	146,243
Mississippi Southern	167,604	130,530	204,678	201,542	161,503	241,581
Missouri Eastern	212,218	175,409	249,028	253,444	213,510	293,378
Missouri Western	219,838	181,988	257,687	256,351	215,617	297,085
Montana	91,201	75,698	106,705	107,812	91,029	124,595
Nebraska	133,764	113,931	153,597	160,171	138,687	181,655
Nevada	167,540	143,445	191,634	203,656	177,651	229,662
New Hampshire	61,640	45,636	77,644	73,935	56,507	91,363
New Jersey	413,337	355,988	470,686	494,124	432,325	555,924
New Mexico	145,071	113,577	176,565	170,980	137,114	204,846

(continued)

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Technical Description of GAO's Analyses

Districts	5-Year			10-Year		
	Estimate	Confidence interval lower limit	Confidence interval upper limit	Estimate	Confidence interval lower limit	Confidence interval upper limit
New York Northern	120,581	95,157	146,005	142,327	114,863	169,792
New York Eastern	366,850	303,407	430,293	432,930	364,656	501,203
New York Southern	517,125	439,311	594,939	576,471	492,280	660,662
New York Western	127,601	107,362	147,839	149,740	127,935	171,544
North Carolina Eastern	186,115	133,032	239,197	219,129	162,397	275,860
North Carolina Middle	105,245	76,323	134,166	122,929	91,742	154,115
North Carolina Western	117,835	87,913	147,756	138,375	106,050	170,701
North Dakota	47,400	38,805	55,995	55,320	46,099	64,541
North Mariana Islands	15,722	15,140	16,304	15,643	14,990	16,296
Ohio Northern	403,543	331,105	475,980	480,615	402,305	558,924
Ohio Southern	309,455	230,912	387,997	368,371	283,031	453,712
Oklahoma Eastern	61,898	51,626	72,169	73,023	62,001	84,044
Oklahoma Northern	111,401	94,122	128,679	132,993	114,261	151,724
Oklahoma Western	213,541	172,019	255,063	256,600	211,571	301,629
Oregon	211,751	170,737	252,766	251,724	207,220	296,228
Pennsylvania Eastern	513,491	450,498	576,484	611,465	543,383	679,548
Pennsylvania Middle	163,992	144,486	183,498	196,485	175,334	217,637
Pennsylvania Western	210,623	173,922	247,324	239,352	205,391	273,313
Puerto Rico	190,298	135,823	244,774	226,901	167,776	286,026
Rhode Island	71,575	56,102	87,047	85,154	68,398	101,909
South Carolina	245,453	206,617	284,290	292,457	250,649	334,265
South Dakota	56,720	41,878	71,561	65,023	49,154	80,892
Tennessee Eastern	160,127	129,022	191,232	188,120	154,498	221,742
Tennessee Middle	147,826	122,979	172,673	176,482	149,626	203,337
Tennessee Western	154,307	129,437	179,177	183,456	156,497	210,416
Texas Eastern	205,107	176,892	233,322	247,088	216,448	277,728
Texas Northern	356,045	302,245	409,846	424,529	366,206	482,852
Texas Southern	491,982	326,816	657,147	507,171	401,237	613,106
Texas Western	247,337	121,273	373,402	284,212	150,610	417,814
Utah	131,456	101,816	161,096	158,898	126,743	191,052
Vermont	31,129	23,292	38,965	34,527	26,121	42,934
Virgin Islands	71,400	34,674	108,126	76,534	36,816	116,251
Virginia Eastern	415,292	350,013	480,572	485,902	416,207	555,597
Virginia Western	193,821	151,989	235,653	232,754	187,323	278,186
Washington Eastern	102,392	80,808	123,975	121,507	98,283	144,731
Washington Western	277,742	227,142	328,341	330,162	275,756	384,568

(continued)

Appendix II
Technical Description of GAO's Analyses

Districts	5-Year			10-Year		
	Estimate	Confidence Interval lower limit	Confidence Interval upper limit	Estimate	Confidence Interval lower limit	Confidence Interval upper limit
West Virginia Northern	65,493	48,425	82,560	77,031	58,594	95,467
West Virginia Southern	136,537	108,409	164,666	161,939	131,484	192,394
Wisconsin Eastern	228,744	188,800	268,689	269,919	230,156	309,682
Wisconsin Western	158,468	132,588	184,347	186,055	160,373	211,737
Wyoming	60,167	60,167	60,167	69,986	69,986	69,986

Source: GAO calculations using AOC caseloads and personnel data

Appendix III

Comments From the Administrative Office of the U.S. Courts

Note: GAO comments supplementing those in the report text appear at the end of this appendix.

L. RALPH MECHAM
DIRECTOR
JAMES E. MACKLIN, JR.
DEPUTY DIRECTOR

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

WASHINGTON, D.C. 20544
June 22, 1993

ROBERT M. CROWDER
OFFICE OF
PROGRAM ASSESSMENT

Honorable Charles A. Bowsher
Comptroller General of the United States
General Accounting Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Mr. Bowsher:

This is in response to your letter of May 25, 1993, by which you have transmitted your draft report, entitled Federal Judiciary Space: Long-Range Planning Process Needs Revision, for our review and comment.

The Administrative Office welcomes this opportunity to review your draft. The Space and Facilities Division of the Administrative Office has prepared detailed comments with proposed revisions for the final report. The draft comes at a particularly opportune time in our history. Our requirements for accommodations for the United States Courts are expected to grow substantially. Moreover, we are especially mindful of the necessity for wisdom in the conservation of our existing Federal court facilities, and in the design and planning for the new facilities. For these reasons, the Administrative Office appreciates your recommendations on the long-range planning process.

The Space and Facilities Division informs me that some areas in the long-range planning process have recently been improved, and that they believe others remain to be addressed. As examples of improvements, the division's staff now routinely updates long-range plans on a two-year cycle, and has implemented more detailed, court-by-court descriptions of facilities, rather than relying on summary data for justifications of building appropriations as had been done previously.

However, the division has also identified a number of significant discrepancies and misunderstandings in the draft report which we ask that you clarify by appropriate statements in the final report. The Space and Facilities Division has provided me with suggested modifications. (Enclosure) As a part of our agency's review, the Statistics Division also examined the draft report closely. Regrettably that division could not provide any substantive comments because of insufficient information in some areas to determine a basis for GAO's recommendations.

A TRADITION OF SERVICE TO THE FEDERAL JUDICIARY

See pp 34-35 and 43

See pp 97-102

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Honorable Charles A. Bowsher
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In January of 1992, at the direction of the Subcommittee on Long-Range Planning of the Judicial Conference Committee on Space and Facilities, the Administrative Office engaged the National Center for State Courts to conduct an independent review of the long-range planning process. The National Center has reviewed and evaluated long-range forecasting methodologies, surveyed estimation processes used by State and local courts, and examined your draft report to assess the impact of its suggested methodologies on space and facilities projections. The review was based on common statistical practices and space planning factors. As usual, the National Center has provided us with insightful and expert recommendations which we consider to be very worthwhile.

The Subcommittee on Long-Range Planning wishes to share the views of the National Center and recommends strongly that, prior to publication of a final report, your audit team meet with staff from the Space and Facilities Division to discuss the National Center's recommendations. We believe this approach will enable the audit team and the division to discuss the enclosed comments and proposed revisions, and share the recommendations of the National Center. Furthermore, it will provide an opportunity to address the issues which remain outstanding from the team's February 19, 1993, briefing at the Administrative Office.

The point of contact for all issues relating to this study is Mr. Walter G. Moon. Please do not hesitate to contact Mr. Moon in the event that you need information about our comments. Once again, thank you for this opportunity to comment on your draft report.

Sincerely,


Robert M. Crowder
Program Assessment Officer
Office of Program Assessment

Enclosure

cc: Space and Facilities Committee Members
Mr. L. Ralph Mecham
Mr. William R. Burchill, Jr.
Mr. Clarence A. Lee, Jr.

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ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS
SPACE AND FACILITIES DIVISION

COMMENTS AND PROPOSED REVISIONS
ON GAO'S DRAFT REPORT
Entitled Federal Judiciary Space:
Long-Range Planning Process Needs Revision,
May 25, 1993

THURGOOD MARSHALL FEDERAL JUDICIARY BUILDING
One Columbus Circle, N.E.
WASHINGTON, D.C. 20544

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FORWARD

At the direction of the Subcommittee on Long-Range Planning of the Judicial Conference Committee on Space and Facilities, the Administrative Office of the United States Courts submits these detailed comments with proposed revisions on GAO's Draft Report entitled Federal Judiciary Space: Long-Range Planning Process Needs Revision, May 25, 1993.

The Space and Facilities Division of the Administrative Office requests that the Comptroller General of the United States exercise the authority under section 718(c), of Title 31, United States Code, to ensure that the changes in the draft report which are indicated by these comments, proposed revisions, and letters are made in the final report.

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COMMENTS WITH PROPOSED REVISIONS

DISCREPANCIES AND MISUNDERSTANDINGS

See p. 36.

Three discrepancies and misunderstandings developed during the audit which now seem to form the foundation of the draft GAO report and, we believe, effect the validity of its findings, conclusions, and recommendations.

1. It appears that the GAO auditors apparently misunderstood and miscalculated the baseline.

The baseline is composed of the current space occupied by the court components plus any existing space shortages. A space shortage is defined as the difference between the space occupied and the space that is functionally specified for each court component. See U.S. Courts Design Guide.

See pp. 42-44.

The GAO calculated the baseline using two different methods, a caseload approach and a current staffing method. Both of these methods significantly understate the needs of the courts. The same flaw is inherent in both of these approaches: GAO has used the pre-site caseload-to-personnel ratios and the space figures contained in the Space and Facilities Division's *Projection Package*, which reflects the Statistics Division data and projects the future expansion for courts of similar size, to determine the courts' space needs. The figures in the *Projection Package* and the methodology employed are only designed for calculating additional space needs, not for calculating current needs. This misunderstanding weakens the draft report, and much of the draft is based on it.

2. We maintain that the GAO auditors are incorrect in their finding that the Space and Facilities Division averages the results of five regression formulas to perform caseload projections.

See comment 1.

Nowhere in the projection process or the projection model does the Space and Facilities Division average five regression formulas.

See p. 46

Five different regression formulas are used in the facility planning process, but the results of the five formulas are not averaged. During the development of the planning process, five formulas were used to calculate projections on each caseload type to determine the formula with the "best statistical fit." Experience has shown that a combination of two formulas, the linear and quadratic formulas, consistently produce the best

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projection results. Therefore, these two formulas are averaged and used to perform the pre-site projections.

Once on-site, if the court planners determine as a group that a particular caseload type needs to be "re-forecasted" using a different regression formula, one of the five formulas is selected to perform the calculation. The court planners then view the results and either accept, reject, or otherwise modify the projections based on their experience. This does not invalidate the process because the reforecast is based on actual data of the professional experts.

3. It seems that the GAO evaluated a complex and interactive process by only reviewing one part.

The draft report overlooks the data and input that is gathered by court planners and GSA personnel, and does not address how planning data is used in developing facility options and recommendations for future action. The latter point is particular is critical because the facility recommendations determine the actions requested by each district. Simply because a thirty-year projection is developed does not automatically indicate that the district will request a new building to satisfy its thirty-year needs (in fact, this seldom happens). To determine options, the long-range planning data is used in a collaborative effort among district, Space and Facilities Division, and GSA personnel. This effort is not considered in the draft report.

A review of the draft report can lead to a false conclusion that the Space and Facilities Division can perform an isolated mathematical process and come up with a plan. Such a conclusion will be false. For example, the statistics gathered by the Space and Facilities Division are only gathered at the district-wide level. The court planners must work together through the process to break these numbers into the specific court locations in each district.

In addition, the data provided by the Space and Facilities Division includes more than just caseloads, personnel, and space. The Space and Facilities Division also provides the planning team with socio-demographic information gathered from the 1990 Census Bureau data, an analysis of the district's past growth, and a handbook on how to perform the process. These materials are mailed to the district one month prior to the planning orientation so that the court planners may have time to prepare their responses and provide feedback. Moreover, this information is mailed to GSA National Headquarters, to the GSA Regional

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Office serving the court, and to the Executive Offices of the U.S. Attorney, U.S. Marshal, and U.S. Trustee.

See comment 3.

During the pre-site process and the on-site orientation, GSA is a full partner in the process. GSA contributes by providing building inventory data, assignment drawings, and building evaluation reports. GSA plays a crucial role in evaluating the structural integrity of each facility, and in developing the long-range facility options that are recommended in each district.

See comment 3.

In summary, the GAO draft report overlooks how the data is used, the group process, and the extensive information coordination that takes place during the planning orientation. We believe GAO will agree that evaluating the utility of an entire forecasting process by focusing on only one part of many, while omitting others, does not present an accurate picture.

FACTUAL ERRORS

Now pp. 16-17. See comment 5.

1. Estimates of staff needs should be determined by the district court representatives without reliance upon statistical methods. (GAO Draft Report, p. 21.)

Final estimates of staff needs are determined by the district court representatives without reliance upon statistical methods.

Now p. 18. See comment 3.

2. GAO's diagram of the process is incomplete. (GAO Draft Report, p. 22.)

The diagram of the long-range planning process does not reflect the entire process.

Now p. 23. See comment 6.

3. The planning process is solely a two-member AOC effort. (GAO Draft Report, p. 29.)

The process involves many more people than the "2-member" Space and Facilities Division team. The process participants include fifteen to forty people depending on the district.

Now p. 21. See comment 7.

4. The courts have no advance knowledge of planning materials. (GAO Draft Report, p. 29.)

The Space and Facilities Division mails the Projections Package to the court planners one month prior to performing the orientation. The estimates of the court planners are made in light of, or as a response to, the pre-delivered statistical

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projections and supporting data.

5. GSA involvement is overlooked by GAO. (GAO Draft Report, pp. 29-31.)

This description of court-related agency projections does not mention the involvement of GSA in terms of providing data and on-site support. GSA's input is critical when determining the options for each facility and performing structural evaluations. GAO omits to mention the pre- and post-site information coordination among the Space and Facilities Division and the circuit councils, GSA National Headquarters, GSA Regional Office serving the court, Executive Offices of the U.S. Attorney, U.S. Marshal, and U.S. Trustee.

6. GSA generally uses AOC's ten-year plans to form the basis for requests for project authorization and funding. (GAO Draft Report, pp. 31-32.)

GSA does not develop buildings solely upon the information produced at the planning orientation.

7. GSA used AOC materials and models to develop alternative methods for estimating the baselines. (GAO Draft Report, p. 35.)

The Space and Facilities Division model cannot be used to calculate total space needs or baselines. The model is designed to project additional growth only. The baseline data is gathered on site with the assistance of the local court representatives and GSA.

8. Differences in assumptions reflect only changes in, and not differences, in need. (GAO Draft Report, p. 38.)

The changes in assumptions that are referred to in paragraph 2, line 1, are not merely subjective. These modifications resulted from concrete experience and changes to the U.S. Courts Design Guide.

9. Space allocations were changed by AOC. (GAO Draft Report, p. 39.)

A database of all planning figures has been maintained and kept up to date since 1990. The updated features include the current circulation figure, design guide square footage, and add-on factors.

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10. Add-on factors were increased without cause. (GAO Draft Report, p. 41.)

The add-on factor is based on experience from performing detailed programming on facilities.

11. AOC used different time-frames. (GAO Draft Report, p. 44.)

There is little statistical significance (weight) to the very early caseload data in a forty-year profile. For long-range planning purposes, this point carries little weight. Caseloads fluctuate year to year - it is difficult to judge the validity of a five, ten, twenty, or thirty-year projection based on two or three years of experience. Bankruptcy cases exploded in 1990 and 1991, as GAO states; but now caseload growth in many bankruptcy courts is apparently slowing. The criminal caseload did slow in 1991, but now is on the rise again. The point is that a long-range forecast cannot be viewed through a short range lens. For over 200 years, the U.S. Courts have consistently grown. The year-to-year trends fluctuate, but the overall trend is one of consistent growth.

12. AOC's growth model one justifies additional judges with lesser increase in caseloads, but does not justify a sufficient number of support staff personnel needed. (GAO Draft Report, p. 46.)

The growth models are reflective of differences in space needs in based differences in sizes of districts. For example, in growth model one districts (i.e. small districts), there is a lower caseload average per judge. The staffing to caseload ratios are based upon the historical AOC data base, not on speculation. In 1991, there was an average of 363 unweighted cases per district judge in growth model one districts. Moreover, there is direct relationship between size of districts and case filings. As one compares growth model one districts to models two, three, and four, the average number of case filings per judge increases.

Small districts are generally more rural (e.g., District of Wyoming) and encompass larger geographical areas than larger districts. Because the caseload is often lower, fewer judges are needed. Moreover, caseloads generally comprise less complex filings in small districts than in growth model two, three, and four districts. Judges in small districts often travel to distant locations to hold court. Because of travel time and caseloads, the average filing per judge ratio is often lower in a

Now pp 29-30. See p 34

Now pp. 31-32. See
comment 9

Now p. 33. See comment
14.

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small district. Also, where there are fewer judges in a district, each judge must perform, on average, more administrative work than judges in districts having more judges.

13. AOC made changes to the assumptions that directly affected the calculation of space needs. (GAO Draft Report, p. 48.)

Application of a specific growth model is determined solely upon caseload with no further manipulation of the data; therefore, the Space and Facilities Division did not place ten districts in growth model four that would have been in growth model three.

14. AOC should depend on statistical approach; only limit on-site sessions to those districts that do not concur. (GAO Draft Report, pp. 49-50.)

The on-site process is much more complex than just having districts verify caseloads. Sensitive issues must be addressed with the GSA representatives, and facility assessments must be gathered. It is true that the initial phase of planning will take five years. However, once this has been completed it will only take two years to repeat the cycle to keep all ninety-four plans up to date.

15. GAO used two models and AOC growth model. (GAO Draft Report, p. 51.)

The need for deficit space has actually little to do with growth models or caseloads. The court either does or does not have its functionally required space. It is not possible to use the Space and Facilities Division model to calculate current needs, it was never designed to perform this task. Any attempt at doing so will result in a significantly lower level of space projection than is actually required.

16. GAO states that the level of subjectivity involved when local representatives identify space deficits reduces the reliability of the results. (GAO Draft Report, pp. 51-52.)

Some subjectivity is required when gathering deficits so that the court does not recommend moving out of facilities due to official, but non-critical space needs.

Section deleted
See comment 10

Recommendation deleted
See pp 34-35.

Now pp. 37-38 See pp.
42-43.

Now p. 37. See pp. 54-55.

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Now pp. 37-38 See
comment 11

17. Because current personnel figures given . . . are overstating/understating projections. (GAO Draft Report, p. 53.)

The number of currently authorized staff is used as the starting point for the personnel projections.

Now pp. 47-48. See pp.
54-55.

18. Subjectivity undermines the reliability of the projection process. (GAO Draft Report, p. 61.)

The reliability of the estimates is strengthened by the "subjectivity" of the input from the court managers. Court managers add their experience and actual working knowledge of their district to the process. The managers use the Space and Facilities Division's statistical projections as a starting point for developing their assumptions. If the managers make changes to the statistical information, these changes are documented in the final report. This "expert panel" method strengthens the planning process by encouraging responsible input from managers, as opposed to a process that blindly accepts statistical data without regard to the experience, intuition, or "gut feelings" of those in the best position to provide it.

Now pp. 47-48. See pp.
54-55.

19. "The AOC does not routinely verify the information provided by the local representatives. . ." (GAO Draft Report, p. 65.)

This statement is factually incorrect. The plan belongs to the district and, as such, the assumptions it includes are validated through the group process that occurs during the orientation. To provide feedback to the court managers, the Space and Facilities Division produces a series of graphics and reports that compare the results of the group to the trends gathered in similar-sized districts throughout the nation. The trends so determined are validated through the qualitative methods of the focus group process and participant interviews. Such processes are standard practice in the behavioral and social sciences. Moreover, the planning team goes through the rigorous detail of cross-comparing the assumptions of all court managers.

Now pp. 48-49 See
comment 12.

20. AOC undermines space needs estimates of U.S. Attorneys, U.S. Marshals, and U.S. Trustees . . . by not gathering advance data. (GAO Draft Report, p. 66.)

The Space and Facilities Division only performs unofficial planning for the court-related agencies (i.e., the U.S. Attorney, U.S. Marshal, and the U.S. Trustees). To the contrary, the Space and Facilities Division has worked out an understanding with GSA to verify all executive branch agency projections with the

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executive office of each agency.

21. Projecting thirty years. (GAO Draft Report, p. 67.)

The Space and Facilities Division projects thirty years because GSA uses this time-frame to indicate the economic life of a facility. Projecting only ten years, as GAO suggests, is not far enough in the future because construction of a new facility requires from seven to ten years. Due to short-sighted planning, some courthouses (i.e., Birmingham, St. Croix, Alexandria, etc.) were out of space before the doors even opened. The Judicial Conference recognized this pattern, as well as courts' space deficits, when the decision was made to direct the Space and Facilities Division to implement the long-range facility planning process.

No one can project accurately for thirty years because one cannot know the future for certain. The long-range plan is a statement of the court's future needs which GSA uses as a part of their decision process. For example, GSA has not built a thirty-year building which remains unoccupied. If GSA does not have enough non-court related agencies to fill a thirty-year request, they do not build to the thirty-year estimate.

22. GAO alternative method for projecting caseloads could provide reliable estimates. (GAO Draft Report, p. 68.)

The regression equations selected by the GAO may "statistically" work in the short term, but over the long run such methods will result in substantially higher caseload projections.

23. GAO states that AOC projections appeared to overstate needs for the ten-year period. (GAO Draft Report, p. 69.)

On GAO's graph, the Space and Facilities Division's process is within the confidence level for both the five and ten-year periods. Thus, the Space and Facilities Division projections fall within the statistical range calculated by GAO.

24. The process/results would be different every time with different people. (GAO Draft Report, p. 71.)

The exact input the Space and Facilities Division receives at any given district cannot not be precisely duplicated given that district court planners have different experiences. The fallacy here is that GAO is using a statistical measure of reliability to judge a process that is only partly statistical.

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To perform a proper reliability test, GAO must use a qualitative, not a quantitative measure.

25. GAO failed to understand how the AOC's growth model categories are developed. (GAO Draft Report, Appendix I, p. 74.)

GAO has incorrectly described how the Space and Facilities Division determines the growth model categories. To divide the courts into model categories, the Space and Facilities Division process takes the mean of the total caseloads for all ninety-four districts. Once the mean is established, there is a group higher than the mean and a group lower than the mean. The model is further divided by taking the mean of both these groups thereby creating four model categories; two below the first mean (one on either side of the mean of the group below the original mean) and two above it (one on either side of the mean of the group above the original mean).

An initial attempt was made to incorporate standard deviations, but the Space and Facilities Division quickly found that the standard deviations produced inconsistent groupings. The process of using means is responsive to the caseload size while keeping the number of districts in each category comparable. Statistically, though not the most conclusive method, experience has shown that this process holds up when performing the long-range plans.

26. GAO says the models on page 6 are assumptions - not fact. (GAO Draft Report, Appendix I, p. 75.)

The caseload to personnel ratios used by the Space and Facilities Division are not assumptions as referred to by GAO. Rather, these ratios are based on actual averages; therefore, they are valid planning factors.

27. AOC doesn't compute costs in developing building options. (GAO Draft Report, Appendix II, p. 85.)

The footnote is factually incorrect. The Space and Facilities Division does compute cost in determining the options for each facility.

28. GAO uses personnel-to-caseload ratios to estimate correct staffing requirements. (GAO Draft Report, Appendix II, p. 92.)

GAO is missing one crucial point: each district is unique. The fact that caseload-to-personnel ratios are produced for each

Now p. 58

Now p. 58

Now p. 58. See comment 15.

Footnote deleted. See comment 16.

Now pp. 68-69. See comment 14

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model, does not mean that those which differ are under or over-staffed. More than just caseload-to-personnel averages are used in calculating actual court staff. The averages used by the Space and Facilities Division have only been sanctioned for long-range planning purposes, and are not designed to calculate the current number of authorized personnel.

29. Baseline issue. (GAO Draft Report, Appendix II, pp. 92-93.)

GAO makes what we think is a critical error in performing its baseline calculations. Table 1.2 is meant as a design guide summary for personnelists that is to be used in the planning process to calculate additional personnel only. To do this evaluation correctly, GAO must use each individual space category contained in the U.S. Courts Design Guide, not the summary figures in Table 1.2. In our opinion, this error significantly weakens the team's entire analysis because the team's analysis relies on the baseline calculations to prove many points concerning space needs.

ISSUES THAT NEED CLARIFICATION

1. GAO estimated the space needs for forty districts for which long-range plans had not been completed based on the results of the fifty-four districts for which the long-range plans were completed. (GAO Draft Report, p. 32.)

The average of the initial fifty-four districts was not used for the remaining forty courts. Rather, using the data from fifty-four districts, the space needs of the other forty districts were estimated. If the average of the fifty-four completed plans was used, then the results could be misleading because the larger and more complex districts were addressed first. Thus, the internal validity of the GAO draft report is questionable because there is not an evenly distributed sample.

2. GAO's interviews are undocumented; thus, AOC has no opportunity to review and comments on the interviews, but would question their validity. (GAO Draft Report, p. 34.)

Are there transcripts from the interviews? How were they conducted? Is the information provided during the interviews documented?

3. GAO's involvement of behavioral scientist undocumented.

During the February 19, 1993, briefing, the GAO auditors

Now pp. 68-75. See pp. 41-42.

Now p. 67. See comment 17.

Now p. 26. See comment 18.

See comment 19.

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indicated that behavioral and social scientists reviewed the process. However, there is no indication in the draft report that this occurred. Did behavioral and social scientists provide input to the draft? Could we review that input? If they did provide input, how could it be verified if they did not participate in the planning process?

AREAS OF AGREEMENT

1. The districts should be treated consistently.
(GAO Draft Report, pp. 34-37.)

All districts were not treated consistently during the planning process because of (1) changes made to the U.S. Courts Design Guide, and (2) the changing add-on factor which was modified based on experience from the actual facility programming phase (the programming phase consists of using the general summary figures produced during the planning process to create highly detailed design guide breakouts for specific projects). However, the Space and Facilities Division has maintained an updated database for all districts since 1990, and has implemented a formal biannual updating procedure for all long-range plans which was commenced in May, 1992.

2. The AOC should revise the plans performed during the beginning phases of the process. (GAO Draft Report, p. 37.)

As mentioned in paragraph 1. above, the Space and Facilities Division has implemented a biannual update process so that all plans are refreshed and kept up to date with each district's changing needs. In addition to the updating process, the Space and Facilities Division maintains continuous contact with the districts where building projects have been identified. To date, the Space and Facilities Division has re-projected the planning figures for over 75 specific project requests from the division's space program managers, court personnel, and GSA regional staff.

3. The AOC should have a consistent process for identifying deficits. (GAO Draft Report, p. 43.)

It is true that the gathering of deficits was not stressed heavily at the commencement of the planning process. However, as the requirements analysis was performed on each identified project, the Space and Facilities Division noticed the original planning figures were too conservative because they did not include current space deficits. Thus, the process was modified by placing an emphasis on documenting in detail the space shortages that exist at each court location. In addition,

Now p. 28. See p. 34.

Now p. 28. See pp. 34-35

Now pp. 30-31. See p. 43

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through the updating process current space deficits are being gathered for all Districts. Furthermore, in October of 1992, the Space and Facilities Division began the development of an "AnyCourt" application, which is a computer model that will automatically perform the detailed requirements analysis from the long-range planning data.

Upon its completion in July of 1993, "AnyCourt" will be able to document consistently the detailed design guide requirements for all court locations for both current and future needs. Once completed the "AnyCourt" application will be incorporated into the normal long-range planning working process to produce long-range plans.

4. The AOC should consider caseload complexity when determining the growth model categories instead of using raw or unweighted caseloads. (GAO Draft Report, p. 44.)

Caseload complexity and various socio-demographic variables have high correlations with the four growth model categories. For example, in growth model 1 (small districts) there is an average of 1.39 defendants per criminal case commenced, while in growth model 4 (large-complex districts) there is an average of 1.47 defendants per case (based on Table D-1. Cases and Table D-1. Defendants, Annual Report of the Director, 1992).

What is implied by this brief example is that the larger the model the more complex the criminal caseload. This relationship also holds true for other caseload types, demographic figures, and economic indicators. Having performed seventy-four plans to date, the Space and Facilities Division's experience has revealed no problems with the model categories; however, if a more rigorous methodology is desirable, then one can be readily incorporated into the planning process.

5. The AOC should not use "arbitrary multipliers" to modify the caseload projections. (GAO Draft Report, p. 63.)

The multipliers are growth factors that were designed to increase the initial caseload forecasts in twenty-four districts. They were developed through experience and applied to the forecasts because the Space and Facilities Division caseload projections were consistently too low, given the assumptions being stated by court managers. In other words, changes were occurring in the courts that the historical data did not predict, such as the "war on drugs," the explosive bankruptcy filing rate, the impact of the sentencing guidelines, and the increased federalization of crimes.

Now p. 33 See p. 35.

Now pp. 46-47. See comment 20.

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The multipliers were merely rough fixes to slightly boost the caseloads until the projection model could be permanently modified to account for the historically unanticipated changes. They were applied because the planning process moved quicker than the process to update the projection model. In October of 1992 the Space and Facilities Division began the task of modifying the model so that the experience based factors or "arbitrary multipliers" would be unnecessary. Through the updating process the caseload projections are being recalculated to incorporate any model changes and to utilize the input of the most recent caseload data.

GAO Comments

The following GAO comments on the Administrative Office of the U.S. Courts' letter are in addition to those included in the report on pages 34-35, 42-44, and 54-56.

(1) AOC stated (AOC comment 2 under Discrepancies and Misunderstandings) that our description of its methodology was not correct—its projections are generated by averaging the results from two analyses rather than the five that we showed in our draft report. In the course of our work, a document provided by the AOC consultant confirmed the averaging of the results from five regression models to generate the caseload estimates. Although we modified the text to indicate that AOC uses linear and quadratic formulas during the projection process, our criticism remains the same. Regardless of whether two or five analyses are averaged, regression results cannot be averaged to produce meaningful estimates.

(2) AOC stated (AOC comment 2 under Discrepancies and Misunderstandings) that reforecasts are made at the request of the local representatives. On page 46 we discuss the implications of the reforecasts now being used by AOC. We do not agree with AOC's statement that a reforecast "does not invalidate the process because the reforecast is based on actual data of the professional experts." The local representatives provide to the AOC team only estimates of future staff/space needs formulated from their experiences. These estimates do not equate to the actual caseload data that would be required to perform reforecasts using acceptable statistical methods.

(3) We agree with AOC that the long-range planning process is only one step in a multiphase procedure for the acquisition and/or alteration of judicial facilities (AOC comment 3 under Discrepancies and Misunderstandings). However, our task was to evaluate the reasonableness of the methodology used by the courts to project long-range space needs. For this reason, our draft report did not include a detailed discussion of how GSA or OMB uses the plans to prepare and/or to revise building prospectuses.

We agree that GSA plays an important role in the building acquisition process, particularly in the structural assessment of existing facilities. However, this role is not an integral part of AOC's long-range planning process for estimating future space needs. GSA's primary function is performed after AOC establishes future space needs, when the existing facility is evaluated to determine the potential for expansion or the need

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for new construction. When GSA begins the development of specific plans for a facility, AOC's 10-year projections become the basis for determining the amount and type of space that will be required to house the projected number of staff.

(4) AOC stated (AOC comment 3 under Discrepancies and Misunderstandings) that we incorrectly concluded that a mathematical procedure could be used to come up with a plan. AOC stated that the statistics gathered by the Space and Facilities Division (SFD) are gathered only at the district level. We do not disagree that the data used by SFD are aggregated by districts; however, the database that is the source of this data also contains an identifier for specific court locations within each district. If AOC used this objective source rather than the subjective information obtained during the on-site sessions, we believe the estimates would be more reliable.

(5) AOC requested (AOC comment 1 under Factual Errors) that the words "should be" be changed to "are." Because we defined the assumptions as the way the process was meant to operate, we did not change the text.

(6) AOC stated (AOC comment 3 under Factual Errors) that the on-site sessions involved more people than we indicated. We stated in our draft report on what is now page 23 that the two-member AOC team, local court representatives, representatives from the related agencies, and GSA attended the on-site sessions. In a footnote we identified the two-member AOC team. We believe we adequately identified the on-site participants; therefore, we made no change to the text.

(7) AOC indicated (AOC comment 3 under Discrepancies and Misunderstandings and comment 4 under Factual Errors) that in our draft report we erroneously stated that the local representatives received no advance information. On what is now page 23 of the report we described the materials provided to local representatives prior to the on-site session. Our further statement now on page 23 of the report states that the local representatives did not receive information directly relating to the caseload projections. Because we believe the draft text was adequate, we did not make any change.

(8) AOC commented (AOC comment 6 under Factual Errors) that GSA does not develop buildings solely upon the information from the on-site sessions. On the other hand, GSA officials told us that they generally use AOC's 10-year plans to form the basis for requests for project authorization

and funding. As per GSA's comments, we modified our draft report to indicate that GSA regional offices may, if they believe the situation warrants, request additional information when an actual building prospectus is being prepared. However, GSA does not routinely request such additional information.

(9) AOC indicated (AOC comment 11 under Factual Errors) that although there have been year-to-year fluctuations in caseloads, the trend over the last 200 years has been consistent growth. While AOC stated that the short-term fluctuations should not be considered during long-range planning, we believe that the current short-term fluctuations adversely affected AOC's projections of future space needs. We believe that because AOC did not include for some districts the significant changes that occurred during 1990 and 1991, this resulted in an inaccurate assessment of needs for some court components. The bankruptcy caseload was underestimated in those districts that were completed prior to 1991, and the criminal caseload was overestimated in these same districts.

The fact that short-term fluctuations do occur in judicial caseloads provides further support for the use of an acceptable statistical methodology for estimating caseloads rather than relying upon qualitative methods. We discuss in the report several sophisticated statistical techniques that will generate accurate projections that take into account the fluctuations that occur over time. (See p. 53). Rather than minimizing the fluctuations that occurred, such procedures generate projections on the basis of the probability that these will occur in the future.

We believe that caseload fluctuations further complicate the task of qualitatively estimating future needs. Local representatives are likely to view future needs primarily in terms of recent caseload changes without considering that this may be only a temporary fluctuation that is not indicative of what will happen over time. (See pages 54-55 for a detailed discussion of the lack of reliability associated with qualitative methods.)

(10) During our audit work, we found that the actual method AOC used to produce growth models differed from the way AOC described the procedure. Rather than using the mean and standard deviations to differentiate among the groups, AOC calculated an overall mean to separate groups one and two from three and four. The mean for each of these two groups was then computed and used to define the four growth models. In our draft report, we included a section that described this ambiguity and showed that 10 districts were misplaced during 1992. As a result of AOC's

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comment (AOC comment 13 under Factual Errors), we deleted the section dealing with the ambiguity and modified the section of the report that deals with the categorization methodology.

(11) AOC stated (AOC comment 17 under Factual Errors) that "the number of currently authorized staff is used as the starting point for the personnel projections." Because this was recognized in our draft report, we did not change the text.

(12) AOC commented (AOC comment 20 under Factual Errors) that it does not "undermine" space needs for related agencies because it performs only unofficial planning for them. In our report we do not imply that these needs are undermined, but rather that the process produces unreliable results for the related agencies. The estimation of future space needs for the related agencies relies totally upon the subjective input from local representative at the on-site session. (See pages 54-55 for a discussion of the lack of reliability associated with qualitative methods of projecting needs.) Because workload data are not readily available for these agencies, we could not assess the accuracy of the results. Because the 10-year estimates being produced through the AOC process are being used by GSA to determine future needs without further verification, we believe that a more reliable way of dealing with these estimates is needed. However, we recognize that this is an issue over which the AOC Director has little control; therefore, we did not make a recommendation to implement a change in this part of the process.

(13) In response to AOC's comments (AOC comment 23 under Factual Errors) we modified the text on page 51 to state that because AOC did not use an acceptable statistical methodology, its estimates cannot be compared mathematically to estimates that were produced by a standard statistical method. This modification is an expansion of the statement in our draft report.

(14) AOC stated (AOC comment 12 under Factual Errors) that within the growth models there is a direct relationship between the size of districts and caseloads. We stated that those districts in growth model 1 required a smaller increase in caseload to justify an additional judge than did those in the other growth models. At the same time, these same districts required a greater increase in the number of judges to justify additional support staff. We did not refer to the numbers as sufficient or not sufficient. Because this is a nonjudgmental statement but merely a statement of fact, we did not modify the text.

(15) AOC stated (AOC comments 25 and 26 under Factual Errors) that because the caseload-to-personnel ratios are based on actual averages, they are valid planning factors. In response to these comments we modified the text on page 58 to show how these ratios are formulated. However, our position is that until the growth models are validated as accurately grouping districts on factors that relate to space needs, ratios based on group averages cannot be assumed to be valid.

(16) We agree that AOC computes costs in developing building options (AOC comment 27 under Factual Errors). Therefore, we deleted a footnote that appeared in the draft report. We further believe that this step in the process is beyond the coverage of this report.

(17) AOC stated (AOC comment 1 under Issues that need Clarification) that we should not have used data from the 54 districts to generalize to the universe. As we state on pages 67-68 of our report, in projecting from the completed districts to those not yet completed, we assumed that the growth rates would be similar. Before we applied this methodology we examined the rate of growth for the completed districts within each of the growth models and determined that our assumption was valid.

(18) AOC stated (AOC comment 2 under Issues that need Clarification) that it had no opportunity to review and comment on our interviews and would question their validity. We followed the GAO standard auditing procedure as defined in the GAO Policy and Procedures Manual, the Communications Manual, Government Auditing Standards, and other relevant procedural guidelines when preparing our interview writeups.

(19) AOC questioned GAO's involvement of a behavioral scientist in the internal review process (AOC comment 3 under Issues that need Clarification). GAO policies define the specific qualifications required of individuals who perform the "referencing" role for draft reports. These persons review all evidence obtained by the audit team to determine whether the information in the files supports the statements made in the report. This was the role of the social scientist to whom AOC referred.

(20) On the basis of AOC's statement (AOC comment 5 under Areas of Agreement) that the multipliers are no longer used, we modified the appropriate sections of the report. However, our concern is that AOC now performs a "reforecast" when the estimates appear to be too low. Because there are no clearly defined criteria for the selection of a method for generating the "reforecast," our criticism remains the same. The results are

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not reliable. Given a different time or different individuals, the selection of the method may be different and the results produced may be different.

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Glossary

Adaptive Filtering	A forecasting method that uses errors in past forecasts, assuming that the forecasting method had been in operation at the earlier point in time, to develop weights that will improve future forecasts.
Add-on Factor	The percentage that AOC applies to space allocations when converting staffing estimates to space needs; composed of a circulation factor and a contingency factor.
Administrative Office of the U.S. Courts	The administrative portion of the federal judicial system.
Assumption Letters	Documents prepared by local district representatives as support for the estimates of future staff provided to AOC during the on-site planning sessions.
Auto-Regressive Moving Averages	A forecasting method that uses a weighted moving average to make future estimates; the weights are established by the forecaster.
Baseline	The amount of space within a district that forms the foundation to which future estimates are added.
Caseloads	Judicial workload consisting of the number of civil and criminal cases commenced, bankruptcy filings, and number of persons under supervision.
Circulation Factor	A percentage that AOC adds to space allocations to account for internal circulation, such as hallways (see add-on factor).
Confidence Interval	A statistical procedure that allows for the estimation at a defined probability level that the population value will fall within defined upper and lower limits.
Contingency Factor	A percentage that AOC adds to space allocations to account for space not directly associated with individual staff, such as jury assembly rooms, records and supplies storage areas, and copier areas (see add-on factor).

Glossary

Court Components	The six components that may be found within a district's space include the district court, the bankruptcy court, the circuit court, the probation office, the pretrial office, and the public defenders' office.
Court-Related Agencies	Those agencies whose functions are related to the judiciary and whose space needs are included by GSA as part of the judiciary space and, therefore, are included as part of the long-range planning process—the U.S. Attorneys' office, the U.S. Marshals Service, and the U.S. Trustee's office.
Deficits	The difference between the space currently occupied by a court component or related agency and the amount of space that the U.S. Courts Design Guide shows as appropriate for that unit or for that function.
Exponential Model	A regression equation that is appropriate when the distribution of the data being used to make a forecast exhibits an initial sharp increase followed by a sharp decline with a long-term leveling-off effect.
General Services Administration	The executive branch agency whose responsibilities include establishing policy for and providing economical and efficient management of government property, including the construction and operation of buildings for various federal agencies and for the judicial branch.
Growth Models	The four categories into which AOC annually places judicial districts in order to establish the ratios used to translate caseloads into staff needs.
Judicial Conference	The policymaking body for the federal judicial system.
Linear Model	A regression equation that is appropriate for use when the distribution of the data being used to make a forecast exhibits a continuing gradual increase or decrease.
Log Transformation	A statistical procedure used often in forecasting to smooth out irregularities in the distribution of the data upon which the forecast is based.

 Glossary

Multiplier	One of a set of numbers between 1.0 and 1.8 that AOC applies to caseload projections when the estimate seems "too low."
Persons Under Court Supervision	Persons who have been placed under court supervision either pending trial or sentencing or as a consequence of a guilty sentence that includes probation.
Regression Analysis	A statistical procedure for estimating the value of one variable (Y) using information about an associated variable (X).
Reliability	A statistical term that relates to the probability that the same results would be reproduced given similar conditions if the process were repeated.
U.S. Attorneys Office	A Department of Justice component whose responsibilities include the prosecution of criminal defendants in federal courts.
U.S. Courts Design Guide	A judiciary document intended to provide recommended space allocations when court space is designed; used by AOC in the long-range planning process to convert staff estimates to space needs.
U.S. Marshals Service	A Department of Justice component whose responsibilities include providing security within buildings occupied by employees of the federal judiciary or related agencies.
U.S. Trustees	A Department of Justice component whose responsibilities include providing administrative support for the bankruptcy courts.

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LOCATION: Kansas City, KS PROJECT: FB Courthouse: Site AMOUNT: \$200,000 AUTHORIZED: A, CA	LOCATION: Sacramento, CA PROJECT: John E. Moss FB/Courthouse Extension AMOUNT: \$5,801,000 AUTHORIZED: CA	LOCATION: Orange County, CA PROJECT: U.S. Courthouse AMOUNT: \$250,000 AUTHORIZED: A, CA	LOCATION: San F., CA PROJECT: U.S. Court of Appeals Annex AMOUNT: \$4,400,000 AUTHORIZED: A, CA	LOCATION: Montgomery, AL PROJECT: U.S. Courthouse Annex AMOUNT: \$13,091,000 AUTHORIZED: STA, CA
		LOCATION: Ft. Myers, FL PROJECT: FB and U.S. Courthouse AMOUNT: \$977,000 AUTHORIZED: CA		
LOCATION: P.G. County, MD PROJECT: Federal Courthouse: Site and Design AMOUNT: \$4,700,000 AUTHORIZED: A;	LOCATION: Augusta, GA PROJECT: U.S. Courthouse AMOUNT: \$353,000 AUTHORIZED: A;	LOCATION: Tallahassee, FL PROJECT: U.S. Courthouse Annex AMOUNT: \$3,764,000 AUTHORIZED: A, CA	LOCATION: Santa Ana, CA PROJECT: FB and U.S. Courthouse AMOUNT: \$2,500,000 AUTHORIZED: A;	LOCATION: Phoenix, AZ PROJECT: U.S. Courthouse AMOUNT: \$120,000,000 AUTHORIZED: STA;

LOCATION: PROJECT: AMOUNT: AUTHORIZED: A;	St. Croix, VI FB, Courthouse \$8,827,000	LOCATION: PROJECT: AMOUNT: AUTHORIZED:	Kansas City, KS FB/U.S. COURTHOUSE \$29,475,000	LOCATION: PROJECT: AMOUNT: AUTHORIZED: A;	Albany, GA U.S. Courthouse, design \$921,000	LOCATION: PROJECT: AMOUNT: AUTHORIZED: A; CA	Ft. Myers, FL FB and U.S. Courthouse \$27,600,000	LOCATION: PROJECT: AMOUNT: AUTHORIZED: STA, CA	Sacramento, CA FB and U.S. Courthouse \$143,082,450
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		LOCATION: PROJECT: AMOUNT: AUTHORIZED:	Prince Georges County, MD U.S. Courthouse \$21,883,000	LOCATION: PROJECT: AMOUNT: AUTHORIZED: A;	Hammond, IN Courthouse and FB \$5,000,000	LOCATION: PROJECT: AMOUNT: AUTHORIZED: A;	Albany, GA U.S. Courthouse \$6,000,000	LOCATION: PROJECT: AMOUNT: AUTHORIZED: STA, CA	Jacksonville, FL U.S. Courthouse, site acquisition and design \$6,070,120
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		LOCATION: PROJECT: AMOUNT: AUTHORIZED: CA	Minneapolis, MN FB and U.S. Courthouse \$68,772,000	LOCATION: PROJECT: AMOUNT: AUTHORIZED: A;	Portland, ME Edward T. Gignoux U.S. Courthouse \$10,575,000	LOCATION: PROJECT: AMOUNT: AUTHORIZED: A; CA	Kansas City, MO FB- U.S. Courthouse \$5,721,000	LOCATION: PROJECT: AMOUNT: AUTHORIZED: STA;	Augusta, GA
		LOCATION:	Camden, NJ	LOCATION:	P.G. County, MD	LOCATION:	Reno, NV	LOCATION:	Augusta, GA

	PROJECT: PO and Court-house Annex, Escalation AMOUNT: \$8,903,000 AUTHORIZED: CA	PROJECT: U.S. Courthouse AMOUNT: \$10,747,000 AUTHORIZED: STA; CA	PROJECT: FB- U.S. Courthouse AMOUNT: \$35,000,000 AUTHORIZED: A; CA	PROJECT: U.S. Courthouse AMOUNT: \$1,000,000 AUTHORIZED: STA;
	LOCATION: White Plains, NY PROJECT: Courthouse AMOUNT: \$26,350,000 AUTHORIZED: CA	LOCATION: Minneapolis, MN PROJECT: FB AND U.S. COURTHOUSE AMOUNT: \$19,000,000 AUTHORIZED: STA; CA	LOCATION: Concord, NH PROJECT: FB- U.S. Courthouse AMOUNT: \$36,576,000 AUTHORIZED: A; CA	LOCATION: Hamond, IN PROJECT: U.S. Courthouse AMOUNT: \$49,980,000 AUTHORIZED: STA;
	LOCATION: Portland, OR PROJECT: Courthouse Annex AMOUNT: \$33,320,000 AUTHORIZED: STA; CA	LOCATION: ST. LOUIS, MO PROJECT: FB and U.S. Courthouse AMOUNT: \$30,000,000 AUTHORIZED: A;	LOCATION: Albuquerque, NM PROJECT: FB- U.S. Courthouse AMOUNT: \$3,118,000 AUTHORIZED: A; CA	LOCATION: Boston, MA PROJECT: FB and U.S. Courthouse AMOUNT: \$18,620,000 AUTHORIZED:
	LOCATION: Knoxville, TN PROJECT: U.S. Courthouse- Post Office AMOUNT: \$3,431,000 AUTHORIZED: A; CA	LOCATION: Reno, NV PROJECT: C. Clifton Young FB, U.S. Courthouse Annex, design and site acquisition AMOUNT: \$6,321,000 AUTHORIZED: CA	LOCATION: Brooklyn, NY PROJECT: U.S. Courthouse AMOUNT: \$15,000,000 AUTHORIZED: A;	LOCATION: Cape Girardeau, MO PROJECT: FOB and U.S. Courthouse AMOUNT: \$3,822,000 AUTHORIZED: STA; CA
	LOCATION: Alexandria, VA PROJECT: U.S. Courthouse AMOUNT: \$58,202,000 AUTHORIZED: CA	LOCATION: Brooklyn, NY PROJECT: U.S. Courthouse AMOUNT: \$10,000,000 AUTHORIZED: A;	LOCATION: Long Island, NY PROJECT: FB- U.S. Courthouse AMOUNT: \$5,200,000 AUTHORIZED: A; CA	LOCATION: Kansas City, MO PROJECT: U.S. Courthouse AMOUNT: \$16,000,000 AUTHORIZED: STA;
	LOCATION: Charleston, WV PROJECT: FB/ U.S. Courthouse	LOCATION: Asheville, NC PROJECT: U.S. Courthouse and FB	LOCATION: Fargo, ND PROJECT: FB and U.S. Courthouse	LOCATION: St. Louis, MO PROJECT: U.S. Courthouse

	AMOUNT: \$80,407,000 AUTHORIZED: A;	AMOUNT: \$29,791,000 AUTHORIZED: A;	AMOUNT: \$23,000,000 AUTHORIZED: A;	AMOUNT: \$24,000,000 AUTHORIZED: STA;
			LOCATION: Columbia, SC PROJECT: U.S. Courthouse Annex, site acquisition AMOUNT: \$4,019,000 AUTHORIZED: A;	LOCATION: Omaha, NE PROJECT: FB and U.S. Courthouse AMOUNT: \$9,361,940 AUTHORIZED: STA, CA
			LOCATION: Laredo, TX PROJECT: FB- U.S. Courthouse AMOUNT: \$3,000,000 AUTHORIZED: A; CA	LOCATION: Newark, NE PROJECT: MLK Jr. FB and U.S. Courthouse, escalation AMOUNT: \$4,293,576 AUTHORIZED: STA; CA
		LOCATION: Knoxville, TN PROJECT: U.S. Courthouse -Post Office AMOUNT: \$36,616,000 AUTHORIZED: A;	LOCATION: Seattle, WA PROJECT: U.S. Courthouse AMOUNT: \$12,000,000 AUTHORIZED: A;	LOCATION: Brooklyn, NY PROJECT: U.S. Courthouse AMOUNT: \$29,400,000 AUTHORIZED: STA; CA
		LOCATION: Charlotte Amalie St. Thomas, VI PROJECT: U.S. Courthouse Annex AMOUNT: \$8,524,000 AUTHORIZED: CA	LOCATION: Beckley, WV PROJECT: FB and U.S. Courthouse AMOUNT: \$10,000,000 AUTHORIZED: A;	LOCATION: Youngstown, OH PROJECT: FB and U.S. Courthouse, site acq. and design AMOUNT: \$4,630,500 AUTHORIZED: STA; CA
		LOCATION: Beckley, WV PROJECT: FB and U.S. Courthouse AMOUNT: \$25,000,000		LOCATION: Portland, OR PROJECT: U.S. Courthouse AMOUNT: \$96,390,000

AUTHORIZED: A;				AUTHORIZED: STA;	
				LOCATION: Scranton, PA PROJECT: FB AND U.S. Courthouse Annex AMOUNT: \$12,093,000 AUTHORIZED: STA; CA	
				LOCATION: Laredo, TX PROJECT: FB and U.S. Courthouse AMOUNT: \$2,986,060 AUTHORIZED: STA; CA	
				LOCATION: Wheeling, WV Project: FB and U.S. Courthouse, including renovations to the existing facility AMOUNT: \$36,000,000 Authorized: STA;	
				TOTAL: \$205,030,800 TOTAL: \$241,857,000	
				TOTAL: \$16,886,000 GRAND TOTAL: \$1,767,081,386	

GAO PROCESS FOR EVALUATING JUDICIARY PROCESS

$$\text{CASELOAD} \xrightarrow{\text{STAFFING}} \text{SPACE} + \text{BASELINE} = \text{TOTAL SPACE}$$

JUDICIARY

1)Run regression models for each type of caseload	1)Rank districts by total current caseloads	1)Apply space allocations to staff projections	1)Add occupied space to unmat needs	1)Add future space projections to baseline
2)Average results of regression models	2)Categorize into 1 of 4 groups	2)Obtain input from local representatives		
3)Project each caseload for each time period	3)Compute personnel to caseload ratios for each group	3)Modify projections to include local input		
4)Apply multiplier of 1.0 to 1.8	4)Project needs by applying ratios to caseloads			

GAO

1)Run linear models for criminal and supervised	1)Apply Judiciary's groups and ratios to GAO projected caseloads	1)Apply space allocations to staff projections	1)Compute by applying Judiciary's groups and ratios to current caseloads	1)Add future space projections to baseline
2)Run exponential models for civil and bankruptcy				
3)Project each caseload for 5- and 10-years				

COMPARISON OF AOC AND GAO PROJECTIONS

EXAMPLE 1--A district where AOC's baseline was understated

A large metropolitan district having complex socio-demographic characteristics and a fast growing caseload

CASELOAD IN 1991

Civil filings	4,439
Criminal indictments	436
Bankruptcy filings	20,111
Persons under supervision	1,308

STAFFING CONFIGURATION

KEY PERSONNEL		OTHER STAFF	
District court judges	12	Senior judges	2
Bankruptcy judges	8	Magistrates	5
Probation officers	50	Support	236
Pretrial officers	7		
Public defenders	4		

SPACE CURRENTLY OCCUPIED 1991

209,801 square feet

DIFFERENCES BETWEEN AOC AND GAO ESTIMATES

Space Needs	AOC Estimates		GAO Estimates Based on caseloads	
	square feet	Cost ^a	square feet	Cost ^a
Baseline	243,757	\$7,556,467	278,008	\$8,618,248
5-year	493,660	\$15,303,460	403,543*	\$12,509,833
10-year	598,130	\$18,542,030	480,615	\$14,899,065
30-year	878,537	\$27,234,647		

^a Computed at \$31 per square feet

*GAO estimates indicate with 95-percent confidence that at the 5-year point the actual will fall between 331,105 and 475,980 square feet.

COMPARISON OF AOC AND GAO PROJECTIONS

EXAMPLE 2--A district where AOC's baseline was overstated

A typical district having steady consistent growth

CASELOAD IN 1991

Civil filings	2,751
Criminal indictments	303
Bankruptcy filings	3,485
Persons under supervision	596

STAFFING CONFIGURATION

KEY PERSONNEL		OTHER STAFF	
District court judges	7	Senior judges	2
Bankruptcy judges	2	Magistrates	4
Probation officers	22	Support	92
Pretrial officers	0		
Public defenders	0		

SPACE OCCUPIED IN 1991

201,365 square feet

DIFFERENCES BETWEEN AOC AND GAO PROJECTIONS

Space Needs	AOC ESTIMATES		GAO Estimates Based on caseload	
	square feet	Cost ^a	square feet	Cost ^a
Baseline	212,060	\$6,573,860	158,581	\$4,916,011
5-year	380,846	\$11,806,226	205,107*	\$6,358,317
10-year	434,919	\$13,482,489	247,088	\$7,659,728
30-year	596,432	\$18,489,392		

^a Computed at \$31 per square foot

*GAO estimates indicate with 95-percent confidence that at the 5-year point the actual will fall between 176,892 and 233,322 square feet.

STATEMENT OF P. GERALD THACKER

ASSISTANT DIRECTOR FOR FACILITIES,
SECURITY AND ADMINISTRATIVE SERVICES

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

1

BEFORE

THE SUBCOMMITTEE ON PUBLIC BUILDINGS AND GROUNDS

OF THE

COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

HOUSE OF REPRESENTATIVES

ON

THE JUDICIARY'S LONG RANGE FACILITIES PLANNING PROCESS

October 7, 1993

Mr. Chairman and Members of the Subcommittee:

On behalf of the Federal Judiciary, I want to thank you for the opportunity to appear before you today to discuss the innovative approach the Judiciary has taken to determine its present and future real property needs. We are pleased to be invited to participate in what we believe will be a productive dialogue about our long range facilities planning process and the General Accounting Office's assessment of a portion of that process.

I would also like to take this opportunity to advise you of the initiatives the Judiciary has taken to control costs of courthouse construction since we last appeared before your Subcommittee.

Joining me today are Dr. Victor E. Flango, Director of Court Research at the National Center for State Courts, and Donald Hardenbergh, a research consultant at the Center, both of whom recently completed an evaluation of the Judiciary's long range planning process; Keith Fentress, a statistical consultant who has assisted us with developing our planning methodology; and Walter G. Moon, our primary staff person responsible for long range facilities planning at the Administrative Office of the U.S. Courts.

Background

Before addressing GAO's report, which we received only three working days ago, I believe it is important first to provide the Subcommittee members with some background information about why the Judiciary has taken an active role in developing space plans for both the short and long term.

Mr. Chairman, the Judiciary is concerned about costs of courthouses and we believe that proper planning is essential if cost savings are to be realized. Historically, prior GSA administrations took a somewhat haphazard approach to the facilities needs of the courts, which in turn led the Judiciary to take a more active role in developing its space requirements. In March 1988, the Judicial Conference approved a proposal that requires each judicial district to develop a projection of its long term space needs using a standard methodology.

Prior to initiation of the long range planning process, GSA would frequently come before your Subcommittee and your counterpart Subcommittee in the Senate requesting funding for an addition to or renovation of a Federal facility only to have to come back as soon as the project was completed with another request to do more work at the same location. We instituted our long range planning process to save costs and to make the process more rational. It was developed to assist decision-makers within the Judiciary, the Executive Branch, and the Congress by looking beyond the "short term." It provides a context within which future decisions can be made about the facilities needs at a given

location. This point is very important. The long range planning process is just one in a series of steps in the project development process. I have attached a flow diagram to this statement that summarizes the project development process. We recognize that GAO was asked to look at only the space projection methodology of the long range planning part of the process, but hope you will be willing to look at the much larger environment in which real property decisions are made in all three branches of Government.

We saw an urgent need to lend some structure to the space projection process because, and I say this with over 19 years of experience as an employee of the General Services Administration in a variety of mid-level and senior management positions, there was not and still is not a uniform procedure within the Executive Branch for determining future space needs.

Just over two years ago Nye Stevens, an Assistant Comptroller General at GAO, told the Environment and Public Works Committee of the Senate that:

Without a capital investment strategy that identifies total short and long-term space needs, relative priorities, and funding requirements, Congress cannot (1) systematically and rationally identify the most critical or most cost-beneficial projects to be constructed or renovated, (2) monitor GSA's performance in meeting overall space needs, or (3) anticipate future capital investment funding requirements.

The Judiciary has taken a look at this problem while the Executive Branch continues to lease more and more space, does not have any capital budget, and is hamstrung by budget rules that preclude more cost-effective alternatives for satisfying the Government's real property needs. I know you have introduced H.R. 2680 to

eliminate these accounting impediments, and as you know the Judicial Conference endorsed the concept embodied in your bill on September 20, 1993, but without a look at the long term, and a context within which you can make decisions, the Government will not be able to take advantage of investment opportunities in real property.

Given that the Judiciary is the first Federal organization to initiate a long range facilities planning process -- a concept endorsed by GAO in Mr. Stevens' testimony -- one would expect to find some strengths and some weaknesses in the procedures we use. We have come a long way since the first long range planning sessions were performed in 1989. We have learned the strengths and weaknesses of our methodologies. As in the initial phases of any project one would expect that adjustments might be necessary -- and we welcome helpful suggestions to improve the process.

My testimony this morning will touch in summary fashion on the three findings of the GAO review:

Finding 1: That the courts have used different sets of data and different space standards as the process has evolved and that this situation should be corrected;

Finding 2: That the courts assume current space is and will be needed for all staff whether or not the staff is justified by workload and that, therefore, the starting points on which projections are based, i.e., "baselines," can be either overstated or understated; and

Finding 3: The projection methodology needs statistical adjustment and that a pure statistical methodology, in lieu of dependence on both a statistical projection and

assumptions about workload made by local courts and Department of Justice staffs during the on-site planning process sessions, would be a better indicator of future space needs.

**Finding 1: Use of Consistent Data
and Accounting for Case Complexity**

As stated on pages 28, 34, and 94 of the report, the Judiciary has gained useful experience with the planning process and recognizes that the plans completed in the initial phases were treated differently than those currently being developed. As I said earlier, we have learned a lot during four years of conducting the planning sessions. We are now, and have been, in the process of updating the plans to account for changes in space standards. We told the GAO staff this on many occasions, even prior to publication of the draft report. Unfortunately, this finding was published in the final report. Let me assure you that our older plans are now updated and requirements for specific projects certainly are reviewed prior to submission to GSA.

On the issue of accounting for case complexity, we have tried to streamline the process as well as we can -- to keep it as simple as a possible so that it can be readily understood by all parties involved in the project development process. When we categorize a district as to the nature of its caseload (see pages 19-20 and 33-34 of the report) we are accounting for case complexity. GAO states that this method is not statistically rigorous and in our comments we agreed to adopt more statistically rigorous methods (see page 95 of the report), although we are not sure that by adopting such

methods GSA and the Congress will have any better information on which to base decisions about a given project than they have now.

In summary with regard to Finding 1, we already are, and have been for some time, updating the plans consistent with the recommendation on page 34 of the report that suggests that the "plans be updated whenever changes are made to the assumptions that affect staff/space allocations." With regard to the second recommendation on page 34, concerning the need to address case complexity in the process, we believe the application of the four growth model criteria described on page 19 of the report and the input from court managers during the plans' development address this recommendation, but are willing to address this concern in more detail.

**Finding 2 -- Methodology Employed to Address
Starting Point (Baseline) From Which
Future Projections Are Made**

The report states that the methodology employed generally overestimates or underestimates the amount of space needed in a given judicial district (page 41 of the report). The variance from the Judiciary's estimates is eight percent higher using current authorized staffing levels to determine space need. The Judiciary's estimates are 16 percent higher, according to GAO, using caseload to determine staffing levels and then deriving the space needed to house staff. The report also states that there is a need to verify space deficiencies in a given district (page 42 of the report).

GAO's analysis overlooks several points which would influence space projections:

1. By using current staffing in its calculations, GAO assumed (as stated on page

72 of the report) that current staffing levels reflect actual need. This assumption does not take into account the fact that at the present time the Judiciary is understaffed by almost 3,100 positions (15 percent) nationwide when actual work measurement criteria are applied to actual caseloads.

Given that GAO used ratios of average current staffing to caseload instead of the levels of staffing that would be authorized based on work measurement formulae, it is not surprising to find many districts staffed above average when compared to districts with similar characteristics. Because courts are understaffed, our projection process has a built-in conservative bias that is 15 percent less than that which is actually required to process the caseload of the courts.

2. The methodology employed by GAO assumes that each district is located in one facility location. If this were the case, the courts would be located in 94 buildings nationwide. In fact we are located in over 730 facilities each with its own specific space configurations, security requirements, and support spaces. GAO's analyses, for example, assume that there is only one clerk's office in a judicial district, when in fact there could be three or four. There also could be three or four jury assembly spaces or three or four drug testing facilities for satellite probation offices.

Given the need to provide public access to the judicial system, it is not always possible to take advantage of the economies inherent in being consolidated in one facility, particularly in large states such as Texas or California in which a number of divisional court locations have been established. By assuming that each district is

located in one facility, GAO has understated our space requirements by 1.0 to 2.1 million square feet.

3. We believe that there is another component of the long range planning process that must be included when establishing a "deficit" of space in a court's current inventory of facilities: the use of the local court official's experience -- judges, court executives and court staff who know first hand the nature of the court's workload at a given location in a judicial district.

On page 42 of the report GAO disagrees with this approach, and I would be happy to discuss your views on this technique with you today. GAO does recognize, however, that we have taken what I view as a very significant step toward standardizing the baseline upon which future space projections are made. On page 30 of the report, GAO notes that we have developed an automated system that will eliminate the need to use "add-on" factors to determine space requirements. On page 43 of the report GAO recognizes that the automated system "...can eliminate the subjectivity that occurs when local [court] representatives identify [space] deficits." We have in fact already addressed GAO's concern.

GAO misses an important issue, however, by looking only at how the space requirements are developed and ignoring how the numbers are used.

The baseline of space requirements contains all the spaces needed with appropriate sizes for those spaces when the total requirements for the district are listed. The baseline of requirements is not used, however, to determine whether the current

facility is adequate or inadequate. Current facilities are considered adequate unless there are serious functional space, health and safety, or security deficiencies. Serious functional space deficiencies might include the lack of an adequately sized jury assembly room, or a location in the facility where an office can be built for a new judge.

Finding 3: Adjusting the Judiciary's Statistical Methodology

In Chapter 4, the report generally deprecates the need for the local courts to provide input into the planning projections. Our reasons for using qualitative (subjective) as well as quantitative data in our projection process are well documented on page 90 of the report.

The report states, on page eight, that if we incorporate subjective input into the process, experts are needed to ensure reliable subjective input is provided and that "...the local representatives that participate in AOC's on-site sessions often would not qualify as experts..." I am sure that there are some judges and court staffs that would disagree with that statement.

In addition, we asked what input behavioral scientists had in developing the report. We are told, on page 101, that GAO policies define the roles of staff that perform "referencing" functions. We, however, are interested in an analysis of how social science researchers participated in writing the report because there are no references to how subjective analysis can be used in the process.

We disagree with GAO on the need to reduce the subjectivity of the process and to basically reduce it to a number-crunching exercise that may or may not have any

relationship to the actual facilities needs of a given court location. We recognize that some minor statistical fine tuning might be necessary. We do not agree, however, that the need for some fine tuning is a basis for concluding, as GAO states, that the results of the planning effort and the entire project development process cannot be used by the Congress to evaluate requests by GSA for new construction projects.

Summary

Throughout the report GAO cumulated data on a nationwide basis to determine gross annual costs of rental payments and space requests. It was never our intention to cumulate all 94 plans and to then derive estimates of total space requirements nationwide. Each district's facilities plan is meant to stand on its own so that GSA can see how the particular plan fits into the needs of other Federal organizations in a given community. On page 51, as an example, GAO, indicates that our projections exceeded GAO's by 16 percent. Even if this is true, and we cannot agree that it is, I hope that you would recognize that such broad generalizations which attempt to invalidate the entire process need to be considered in the context of some facts:

- We are providing the Congress with the best information available on a given project. We recognize that GAO was asked only to study the methodology used to develop space projections in the long range planning and project development process. But the work done by GSA, outside consultants, and the Judiciary to produce more detailed independent analyses (known as prospectus development studies) and the other steps as shown on the flow chart I have included with this statement, all play a major role in the decision-making process.
- We are not asking GSA to build empty space for us.

- We are not asking GSA to build twenty or thirty year buildings for us. We would hope GSA would have the foresight to choose sites for a building that could accommodate expansion should it be needed in the future so that the investment being made today will not have to be abandoned in the future.
- We are not asking GSA to build space that has resulted from overstaffing because overstaffing does not currently exist.

Cost Containment and Other Initiatives of the Judicial Branch

Mr. Chairman, if I may I would like to briefly advise you of a number of initiatives we have undertaken to reduce the costs of court facilities. I know costs are of great concern to this Committee as they are to all taxpayers. In April of this year, we testified that we would look seriously at costs and take actions where feasible to reduce the costs of court facilities.

On September 20, 1993, the Judicial Conference of the United States approved changes to a number of space standards that will help us to avoid construction of duplicate types of spaces, such as conference rooms and training rooms, to address the need to consider the fiscal implications of design decisions, and to eliminate the requirements for a separate emergency exist path for judicial officers and prisoners. The specifics of these changes have been provided to the Subcommittee's staff.

We also have participated jointly with GSA in an independent courthouse cost panel. I would be pleased to discuss the preliminary findings of that review with you. In addition, the Judicial Conference endorsed, in concept, H.R. 881, The Ban on Smoking

in Federal Buildings Act. I know you have shown great interest in that bill.

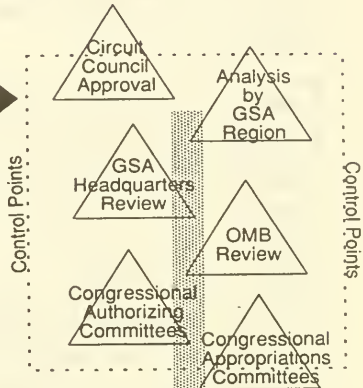
Mr. Chairman, I would be pleased to answer any questions you and the other Subcommittee members might have at this time. Again, we appreciate the opportunity to appear before you today.

Steps In The Whole Process

All Court Offices
U.S. Trustees
U.S. Marshals Service
Local GSA Staff
U.S. Attorneys

Local District's Space Analysis Compiled in the Long-Range Plan

New Facility



Short Term Space Needs

A Detailed Housing Plan

A Detailed Design

Construction



Occupancy

COMPARISON OF GAO RECOMMENDATIONS TO
THOSE OF THE NATIONAL CENTER FOR STATE COURTS

GAO Recommendations	National Center for State Courts Recommendations
AOC should update district plans whenever changes are made to the planning assumptions to ensure consistent treatment.	The same time frame should be used for all districts.
AOC should devise a method for classifying districts that would consider case complexity.	Use of the four growth models should be reviewed to make sure that they reflect significant differences among groups.
AOC should revise the process to require that baselines reflect the assumptions as to the relationships between caseloads, staff needs, and space needs.	
AOC should verify that deficits represent actual unmet space needs.	
AOC should identify and use a standard statistical technique to generate caseload projections.	The AOC should use two separate forecasting methods instead of averaging the separate forecasting methods.
AOC should reduce the subjectivity of the process by verifying the information provided by the local representatives.	The original staffing projections obtained through the use of statistical projections of caseloads should be modified only if there is a demonstrated need.
AOC should limit the time span covered by the projections to 10 years.	The initial planning phase should encompass a much shorter time frame, perhaps 15 to 20 years.

THE JUDICIARY'S LONG RANGE FACILITIES PLANNING PROCESS
A CONTEXT FOR DECISION-MAKING



THE JUDICIARY'S LONG RANGE FACILITIES PLANNING PROCESS - -
A CONTEXT FOR DECISION-MAKING

WHAT IS LONG RANGE PLANNING ?

"LONG RANGE PLANNING DOES NOT DEAL
WITH FUTURE DECISIONS, BUT WITH
THE FUTURE OF PRESENT DECISIONS."

PETER F. DRUCKER



WHY ARE WE DOING

LONG RANGE FACILITIES PLANNING ? ? ? ?

- BRAND NEW BUILDINGS WERE OUT OF SPACE AS SOON AS WE MOVED IN
- IT WAS TAKING AT LEAST FIVE YEARS TO PROVIDE FACILITIES FOR A JUDGE
- LACK OF SPACE HAS CAUSED SPLIT OPERATIONS AND RESULTED IN WORKFLOW INEFFICIENCIES AND SEVERE SECURITY RISKS
- ALMOST 13,000 POSITIONS HAVE BEEN AUTHORIZED SINCE 1983



THE FEDERAL JUDICIARY COMPARISON OF STAFFING 1983 - 1993				
PERSONNEL	PERMANENT POSITIONS	PERMANENT POSITIONS	DIFFERENCE	PERCENT INCREASE/ DECREASE
	1983	1993		
ARTICLE III JUDGES	659	828	169	25.64%
SENIOR JUDGES	230	345	115	50.00%
OTHER JUDGES:				
COURT OF INTERNATIONAL TRADE	9	9	0	0.00%
COURT OF FEDERAL CLAIMS	16	16	0	0.00%
BANKRUPTCY COURT	222	326	104	46.85%
MAGISTRATE COURT	223	375	152	68.16%
SUBTOTAL	1,359	1,899	540	39.74%
SUPPORT STAFF:				
JUDGES' STAFF	3,642	5,162	1,520	41.74%
FEDERAL CIRCUIT	61	93	32	52.46%
COURT OF INTERNATIONAL TRADE	94	77	(17)	-18.09%
CLERKS' OFFICES	5,155	11,310	6,155	119.40%
CIRCUIT EXECUTIVES' OFFICES	45	114	69	153.33%
PROBATION OFFICES	2,808	5,339	2,531	90.14%
PRETRIAL OFFICES	126	878	752	596.83%
STAFF ATTORNEYS	192	388	196	102.08%
LIBRARIANS	124	266	142	114.52%
COURT REPORTERS	558	684	126	22.58%
OTHER	167	114	(53)	-31.74%
SUBTOTAL	12,972	24,425	11,453	88.29%
FEDERAL DEFENDERS	329	1,038	709	215.50%
COURT SECURITY	0	23	23	N/A
BANKRUPTCY ADMINISTRATORS	0	53	53	N/A
SUBTOTAL	329	1,114	785	238.60%
GRAND TOTAL	14,660	27,438	12,778	87.16%

GAO'S VIEW OF GSA'S PLANNING PROCESS

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"WITHOUT A CAPITAL INVESTMENT STRATEGY THAT IDENTIFIES TOTAL SHORT AND LONG-TERM SPACE NEEDS, RELATIVE PRIORITIES, AND FUNDING REQUIREMENTS, CONGRESS CANNOT (1) SYSTEMATICALLY AND RATIONALLY IDENTIFY THE MOST CRITICAL OR MOST COST-BENEFICIAL PROJECTS TO BE CONSTRUCTED OR RENOVATED, (2) MONITOR GSA'S PERFORMANCE IN MEETING OVERALL SPACE NEEDS, OR (3) ANTICIPATE FUTURE CAPITAL INVESTMENT FUNDING REQUIREMENTS."



L. NYE STEVENS
DIRECTOR, GOVERNMENT BUSINESS
OPERATIONS ISSUES
GENERAL ACCOUNTING OFFICE

BEFORE THE SENATE COMMITTEE
ON ENVIRONMENT AND PUBLIC WORKS
AUGUST 1991

A Suggested Focus When Considering A Project

What is the Basis for Requesting the Facility ?

- ✓ Are the Premises Sound for the Need?
- ✓ Why do We Need a New Facility as Opposed to Some Other Alternative?

What is the Approximate Size and Cost of the Facility?

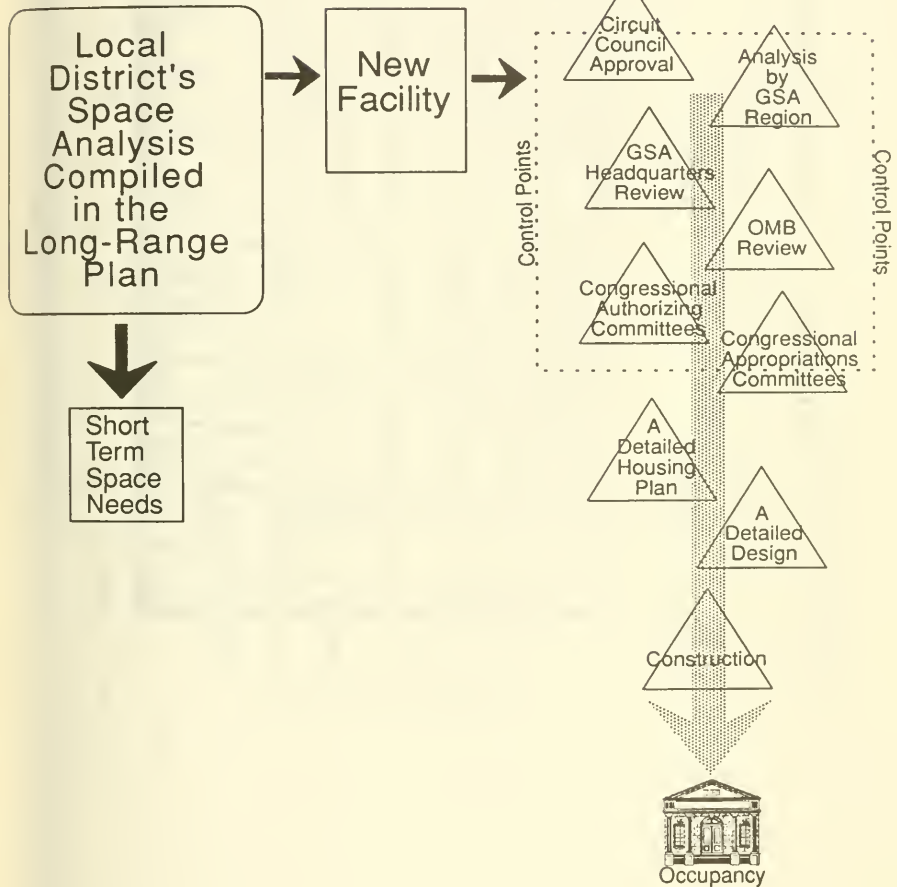
- ✓ Does the Requirement Conform to the United States Courts Design Guide or Other Applicable Standards?
- ✓ Does the Cost Conform to Benchmarks?
- ✓ Is the Size Right for the Particular Situation?

How Does the Project Fit Into A Larger Context...

- ✓ For the Tenants of the New Facility?
- ✓ For the Overall Needs of the Federal Family in that Community?
- ✓ For the Portfolio of Federal Space?

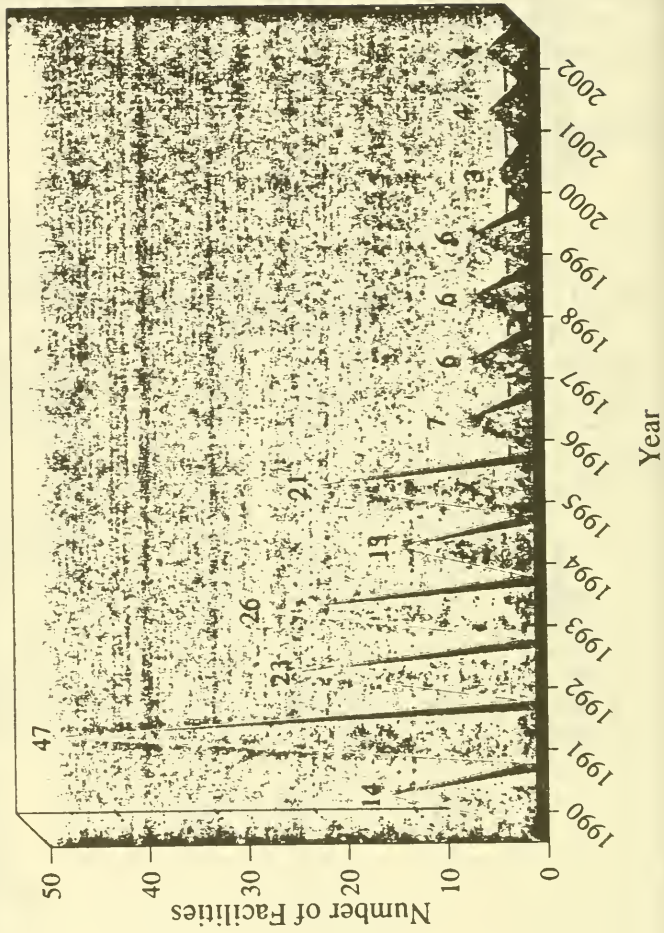
Steps In The Whole Process

All Court Offices
U.S. Trustees
U.S. Marshals Service
Local GSA Staff
U.S. Attorneys



Number of Facilities Out of Space Per Year

Projects Identified Between 1990 to 2002



JUDICIARY SUPPORTS

A. GAO belief that the Judiciary should revise plans completed during beginning phases of the process.

- ∞ Recommendations already incorporated into the process
- ∞ Judiciary has gained experience since beginning of process
- ∞ District-wide updates initiated for all of the original plans
- ∞ Specific planning data for each project reviewed prior to submission to GSA

JUDICIARY SUPPORTS, WITH RESERVATION

B. GAO belief that the Judiciary should consider caseload complexity in determining growth model categories instead of raw or unweighted caseload data.

- ∞ Growth model categories address case complexity
- ∞ Streamlined process forecasts court trends and patterns in an easy to understand and effective manner
- ∞ Process consistently has used unweighted caseload filings
- ∞ Will accounting for case complexity in a more rigorous way significantly improve project approval process?

ADJUSTMENT OF THE STATISTICAL METHODOLOGY

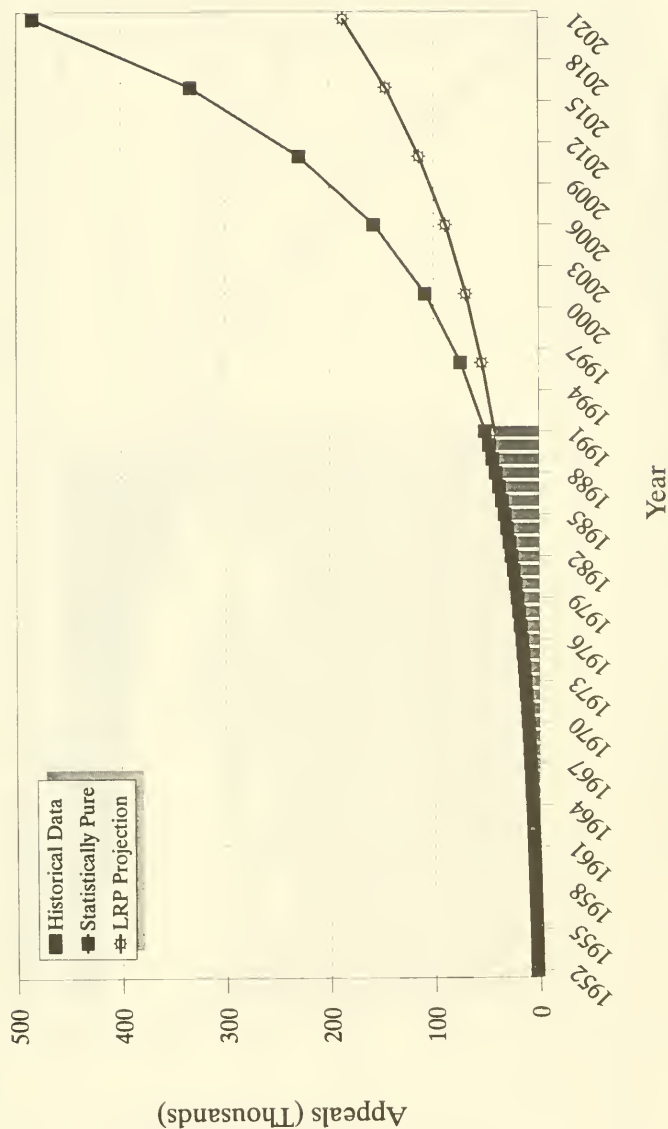
JUDICIARY DOES NOT SUPPORT

GAO view that the planning process is only a statistical procedure and projections beyond 10 years are not useful.

- Planning process cannot be performed as an isolated mathematical procedure; it requires input from court officials, local on-site data gathering, and mutual cooperation and consensus
- Judiciary estimates are within limits of GAO confidence levels
- Projections beyond ten years are useful for sizing sites

Total Appeals Commenced

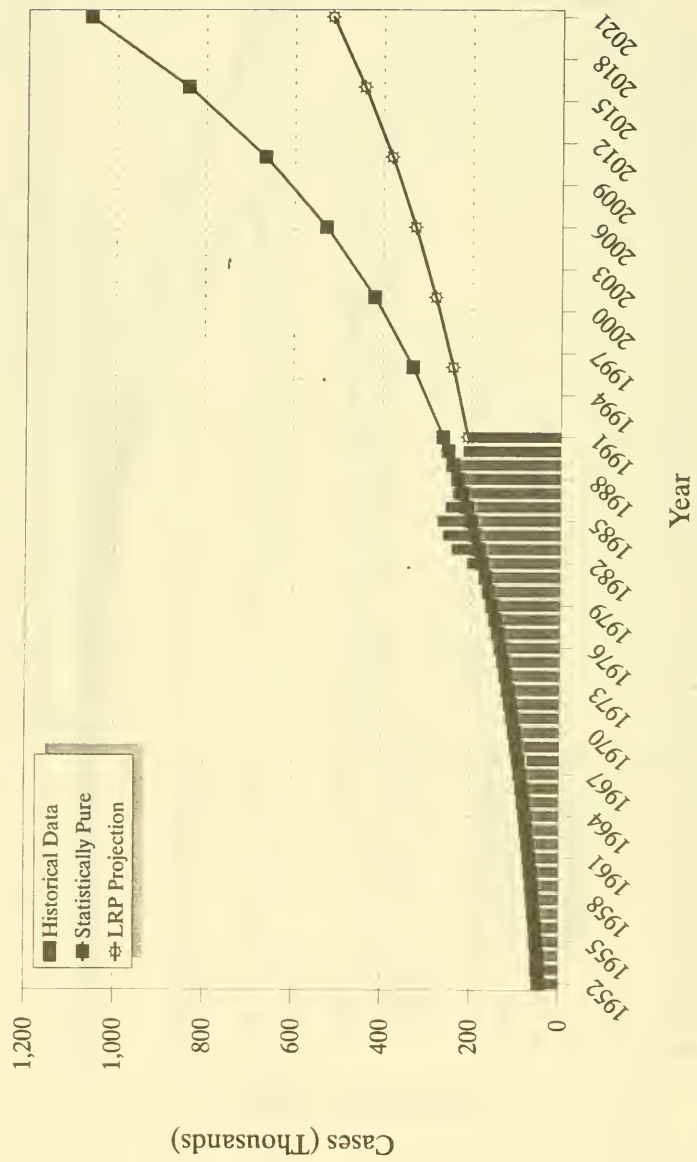
Pure Statistical Trend vs. Long Range Planning Projection



Statistically pure projection is an exponential regression curve with an R squared value of .88.

Civil Cases Commenced

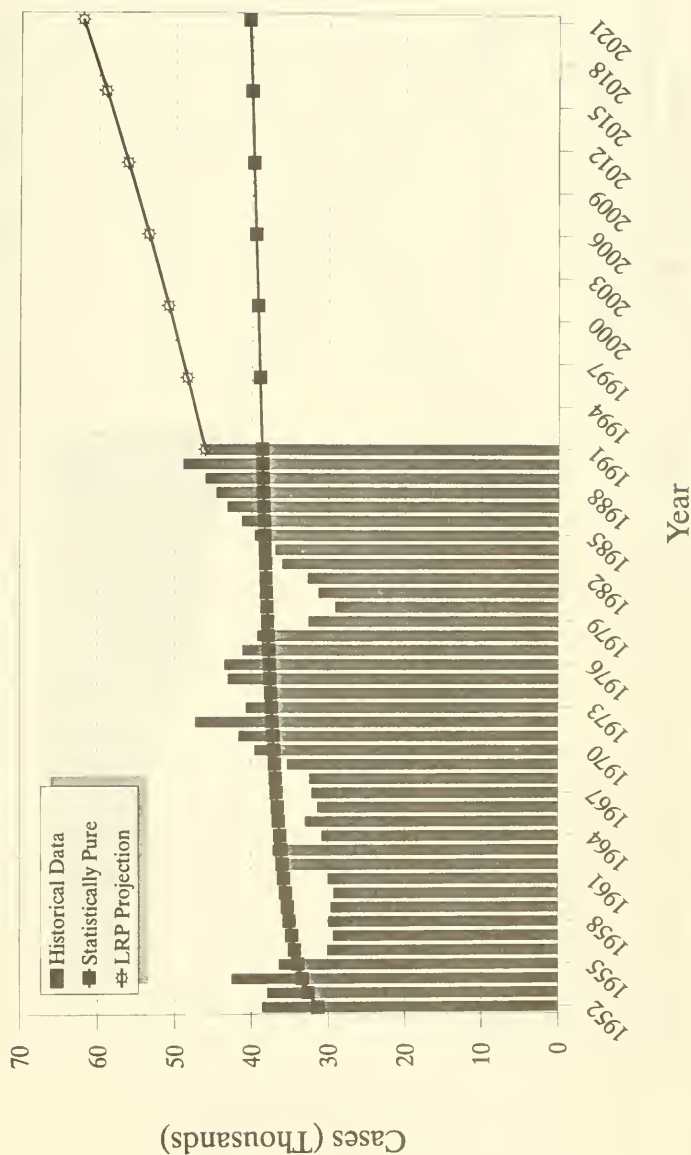
Pure Statistical Trend vs. Long Range Planning Projection



Statistically pure projection is an exponential regression curve with a R squared value of .95.

Criminal Cases Commenced

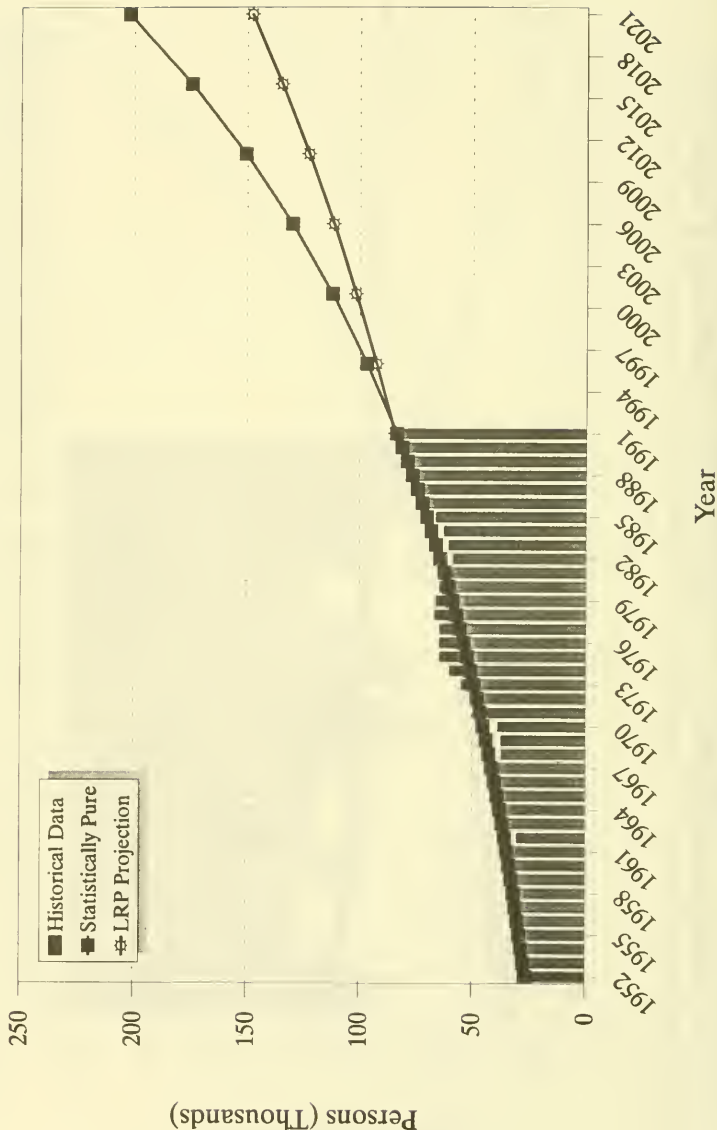
Pure Statistical Trend vs. Long Range Planning Projection



Statistically pure projection is a power regression curve with an R squared value of .87.

Persons Under Supervision

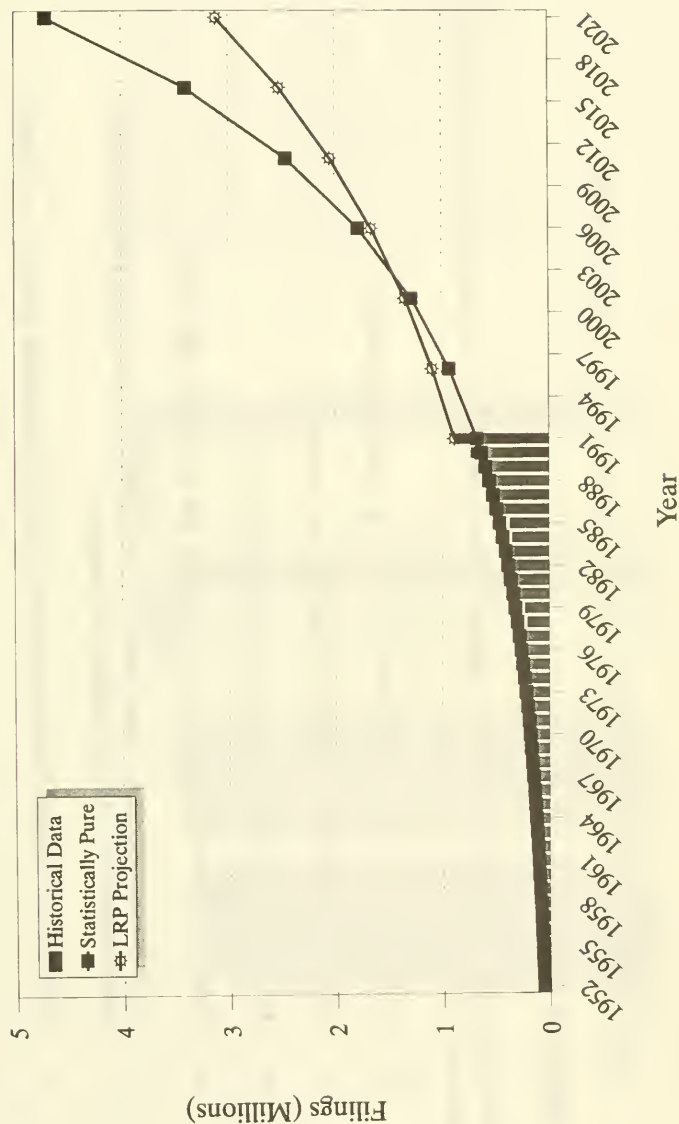
Pure Statistical Trend vs. Long Range Planning Projection



Statistically pure projection is an exponential regression curve with an R squared value of .98.

Total Bankruptcy Filings

Pure Statistical Trend vs. Long Range Planning Projection



Statistically pure projection is an exponential regression curve with an R squared value of .91.

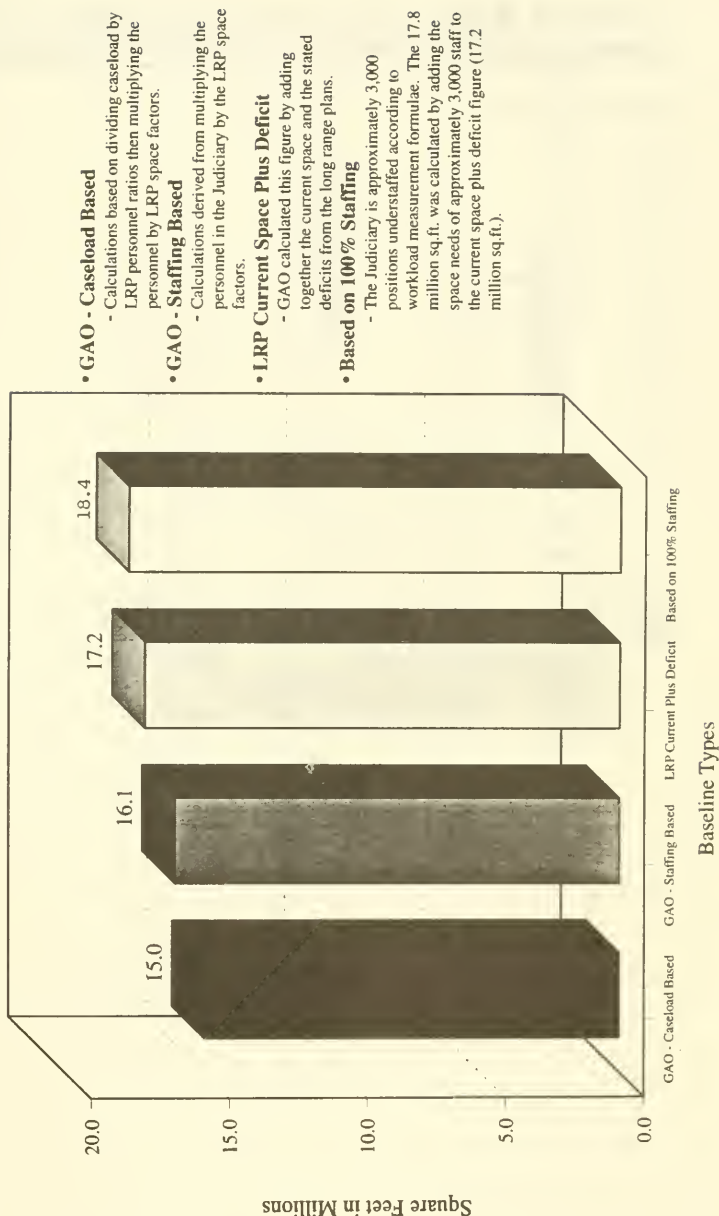
ESTABLISHMENT OF THE STARTING POINT (BASELINE)

JUDICIARY DOES NOT SUPPORT

GAO belief that the Judiciary’s process generally overestimates or underestimates the amount of space needed in a given District

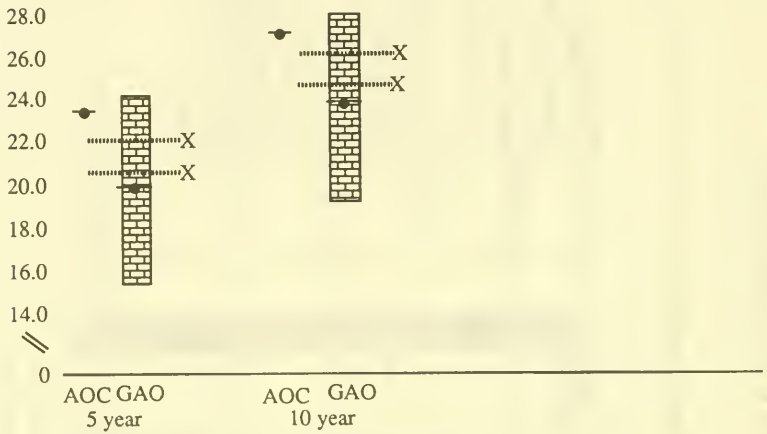
- GAO analysis overlooks current inventory as a starting point
- Space configurations in current facilities not considered
- GAO assumed current staffing equals actual need
- GAO assumed all offices for each district are located in one facility
- Only by incorporating input from on-site staffs can functional and non-critical shortcomings of existing facilities be assessed
- Spaces below Design Guide standards not used to determine need for new facility




Baseline Calculations Judiciary and GAO Comparisons



Estimates of Space Needs for Court Components Using Standard Statistical Methods and AOC Projections

Million square feet



 Upper limit
 Estimate
 Lower limit

.....X GAO Estimate plus AOC baseline

Source: GAO analyses using AOC data

Conservatism Designed into the Planning Process

- ✓ Staffing to caseload ratios are calculated from authorized staffing levels which are 15% below the staffing need based on workload formulae.
- ✓ The forecasting model has a built in limit that will not project caseloads that are over three times the current value.
- ✓ The projections are influenced by the experience gained in other districts having similar characteristics.
- ✓ Only functional space deficiencies are used in determining the need for a new facility.

Evaluation of the AOUSC Long Range Planning Process FINAL REPORT

August 1993

Prepared by

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**Victor Flango
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ABSTRACT

Facilities planning is a process that involves several steps: needs assessment, resource evaluation, implementation planning, and architectural programming. The process begins with an assessment of existing facilities. The analysis of current and future space needs is an important component of each step, and the analysis becomes more detailed and specific as the planning progresses. The planning process precedes through a series of questions.

- Is the current facility adequate?
- If currently adequate, at what point in the future will it no longer be adequate?
- How can the court's future facilities needs be met?

The Long Range Planning Process (LRP) developed by the Administrative Office of the United States Courts (AOUSC) seeks to determine answers to these questions for all district court facilities. To date they have completed 72 plans, with the remaining 22 districts scheduled to be completed by early 1995.

Questions, however, have been raised regarding the accuracy of the AOUSC's long range plans and the justifications used for new court facilities. The General Services Administration (GSA) in their comments on the AOUSC's long range planning process, GSA noted their concern "... about the import of (the planning studies) and their impact, not only on workload and resources, but whether or not the projections are reasonable and should be used as a basis for long-term planning."¹ In particular, the questions have been raised about whether caseloads are a function of population growth and whether the reliance on the analysis of historic caseload trends does not lead to higher caseload projections.

Another concern of the GSA was the observed increase in projected space needs during the planning process. In many instances, the preliminary forecasts prepared by the AOUSC's Space and Facilities Division are increased by the district courts during the on-site planning sessions. The GSA reasoned that on-site changes should be divided equally between increases and decreases.

Questions raised about the long range planning process affect the accuracy of the needs forecasts and consequently the amount of space required. in light of

¹Letter to Ralph Mechem from Richard Austin, Feb. 5, 1992, Comments on the Long-Range Planning Process of the Administrative Office of the Courts, p. 1)

limited resources, GSA is concerned that inaccurate forecasts result in the construction of more space than will be needed.

This evaluation of the AOUSC's Long Range Planning Process is designed to assess the methods used by the district courts in preparing the plans and to study the facility planning methods used by other jurisdictions, particularly state trial courts.

Overall, the planning procedures and methodology used by the AOUSC's Space and Facilities Division and the District Courts follow generally accepted practices used in all facility planning efforts. The procedures are well defined and thoroughly applied. While rigor and preciseness are always to be desired in any planning project, the necessity of making projections that extend 10, 20 and 30 years into the future, makes forecasting more of an art than a science. Generally, the procedures being used are ones used and recommended for facility planning, by professional architects, facility planners, and other public jurisdictions.

Examples of long range caseload forecasting for facility planning purposes at the state trial court level, however, are scarce, except for individual courthouse projects. Whether caseload forecasting is done by local governments or state governments, it is performed almost always for budget and general planning purposes. Only in a few instances is it related to facilities planning. The forecasting methods used are generally limited to regression analysis or the use of trend lines. A few states make use of ARIMA and smoothing techniques. Projections used for budgeting and resource determination usually do not extend beyond two to three years.

Estimates of the eventual space requirements, for a building that is expected to last for between 30 and 50 years, need to go beyond two to three years; especially, if the availability of funding for future expansion is questionable, as is the case with many government projects. Most facility planners use a 20 year planning horizon, but time frames vary between 15 and 30 years. In the few states that do long range projections for facility planning, a twenty year time frame is common.

Facility planners use various statistical techniques, but the most common are trend lines, regression analysis, and even the use of percentages. In a few instances, multiple regression and other multi-variate techniques might be used. Statistical forecasting is often supplemented by subjective methods such as the Delphi approach, "consensus panels," or focus groups, much as is done during

the AOUSC's on-site planning sessions, to fine-tune the caseload and staffing projections.

The methods used by the AOUSC in its long-range planning program are at least as rigorous as generally accepted practices used by state and local governmental jurisdictions. With some minor exceptions, which are mentioned in the following recommendations, the AOUSC's process should be considered a model to be followed by other jurisdictions that might wish to take a comprehensive look at their court facilities.

The following is a list of the recommendations to improve the AOUSC's facility planning process contained in this report.

Recommendation 1. The original staffing projections obtained through the use of statistical projections of historic caseloads should be modified during the on-site workshops only if there is a demonstrated need to do so. The burden of proof should be upon those wanting to make changes to the original estimates. Guideline 4 of *The Guidelines for Assessing Judicial Needs*, issued by The Task Force on Principles for Assessing the Adequacy of Judicial Resources places the burden of proof on those who wish to make changes to the original projections. Reasons for why the subjective estimates should override the statistical estimates should be stated explicitly. (See page 22).

Recommendation 2. In the supporting graphics produced during the planning process, historic and future cases should be displayed differently in order to emphasize the difference between actual cases and future estimates. It is suggested that if bars are used to display historic cases, that a line be used to display the trend or regression line. (See page 23).

Recommendation 3. The AOUSC planning staff should be careful, or at least aware, of the impact different scales have on the presentation of data. A small scale can easily distort a trend line, especially when the chart next to it has a different scale that may dampen a trend. Whenever possible use the same scale on different charts, but when this is not possible, try to highlight the difference in scale. (See page 24).

Recommendation 4. Use ranges of caseloads whenever possible to remind the reader that future projections are only estimates, particularly during the on-site workshops. (See page 24).

Recommendation 5. Use of the four growth models should be reviewed to make sure that they reflect significant differences between groups of districts and define unique categories of districts. (See page 27).

Recommendation 6. The same time frame (40 years of date) should be used for all districts, but the data from more recent years may be plotted on the same graph and used to determine if adjustments are necessary. A technique, such as exponential smoothing, should be used so that the more recent data is given greater weight in determining the trend line. (See page 27).

Recommendation 7. The AOUSC should continue using two separate forecasting methods (trend line and power curve), instead of its previous technique of averaging these two separate forecasting methods. (See page 33).

Recommendation 8. The initial planning phase should encompass a much shorter time frame, perhaps 15 to 20 years. Only if the evaluation of the current facilities, or short term growth estimates (fifteen to twenty years), justify a new facility should a complete thirty-year plan be done as part of master planning and programming phases. (See page 35).

Recommendation 9. Space for areas that are currently not present, but which are essential to the effective functioning of the court should be included in the calculation of the baseline. (See page 3).

PURPOSE

Under a contract with the United States Administrative Office of the Courts (AOUSC), the National Center for State Courts has agreed to

1. Review the methodology used by the AOUSC to estimate future space needs for Federal court facilities;
2. Survey State and Local court jurisdictions to find out how other court or governmental jurisdictions make estimates of future judicial space needs; and
3. Conduct a review of the General Accounting Office (GAO) report of the AOUSC's space needs projection methodology.

The major goal of the AOUSC long range planning process is to identify space and facility problems in any of a district's judicial buildings. The success of the AOUSC's long range planning process should be judged on the basis of whether it accomplishes this goal.

- Does the process identify facility needs?
- How accurate are the estimates of need?
- Does the process create a plan for addressing and remedying the identified needs?

The General Services Administration (GSA) in their presentation on the AOUSC's long range planning process state that, "(GSA) is concerned about the import of (the planning studies) and their impact, not only on workload and resources, but whether or not the projections are reasonable and should be used as a basis for long-term planning."² Questions have been raised concerning the effectiveness of the long range planning process, especially with the accuracy of the needs forecasts and the resulting space estimates. GSA is concerned that inaccurate forecasts result in the construction of more space than will be needed. A particular problem in an era of limited resources.

A specific question has been raised as to whether caseloads are a function of population growth. While case filings³ are highly correlated with population size,

²Letter to Ralph Mecham from Richard Austin, Feb. 5, 1992, Comments on the Long-Range Planning Process of the Administrative Office of the Courts, p. 1)

³National Center for State Courts, Court Statistics Project. *State Court Caseload Statistics: Annual Report, 1992.*

the correlation with growth, or changes in population, is less because the percentage change in population tends to be small compared with the relatively large percentage changes in caseload. In the short term, caseloads are affected more by changes in government policy, legislation, and other societal factors than by population growth.

Another concern of the GSA was the observed increase in projected space needs during the planning process. In many instances, the preliminary forecasts prepared by the Space and Facilities Division are increased by the district courts during the on-site planning sessions. The GSA reasons that the original projections are reasonable estimates and that on-site changes should be divided equally between increases and decreases.

Before these concerns are addressed in the Issues section of the report, a general discussion of court facility planning concepts, a description of the long range planning process developed by the AOUSC, and an introductory discussion of various methods for forecasting court caseloads is necessary to place the concerns in context.

GENERAL PLANNING CONCEPTS

Typical court facility projects go through several predesign planning steps, including (1) needs assessment and resource evaluation, (2) implementation planning, (3) and architectural programming. Each phase in the process becomes more detailed and specific as the project becomes better defined.

During predesign planning, project goals are defined; essential problems are identified and solutions sought; the building's size and occupancies are settled; project budgets are established; and facility planning and design standards are set. Predesign planning lays the foundation for design, and it is during this phase that changes can most readily and least expensively be accomplished.

(1) Needs Assessment and Resource Evaluation.

Most projects begin with a recognition that existing facilities are inadequate. The AOUSC's efforts to evaluate all federal court facilities has few comparisons among state governments and was undertaken only after a recognition that many existing U.S. courthouses were, or soon would be, inadequate. (See section "What Other Jurisdictions Do" for information on which states have completed evaluations of their courthouse inventory.)

Early in the long-term planning process, deficiencies in the current facility must be quantified and the magnitude of future need estimated. One of the primary objectives of evaluating existing resources is to distinguish between physical overcrowding and operational obsolescence. A facility that functions effectively by modern standards of circulation and zoning, security, space utilization, work flow, and accessibility is almost certain to be retained as a judicial facility even though it may lack sufficient space. If growth has simply caused the facility to become overcrowded, the current facility most likely will be retained and supplemental space, with or without renovation of the current courthouse, should be sufficient to address long-term needs. If, however, a facility is both operationally obsolete and overcrowded, then even significant internal renovation may not enhance its long-term usefulness.

Projections of Future Needs. A key element in the planning process is the forecasting of future space needs. An assessment of space needs establishes a target for the facility planning and design process. By focusing on current needs, and projecting those needs into the future, a court can commence the planning process with a clearer understanding of how immediate physical solutions and funding strategies fit into an overall plan for longer-term space needs. The purpose of estimating future needs at this point in the planning process is to decide whether the current facility is, or will continue to be for the immediate future, adequate or whether further planning is needed. For this initial planning phase a planning horizon of about 15 years is usually sufficient. It often takes 7-10 years for a new courthouse to be brought into service. If within that time the existing facility becomes inadequate, then planning for additional space should begin now. If the courthouse space is expected to remain adequate for the next 10-15 years, then planning for a replacement or renovation can wait.

One precondition for evaluating court facility space needs is estimating future judicial and non judicial staffing needs, which in turn require estimates of future caseloads. Because most court work involves processing individual cases, the most readily available (and most frequently used) workload measure is the number of case filings or dispositions.

Once caseload projections are made, they can be used to develop staffing estimates for the various offices and agencies to be included in the facility. Future judgeship needs can be estimated on the basis of filings or dispositions per judge. Because of the varying amounts of time spent by judges on different case types, different ratios should be developed for each of the major case

types,⁴ and it is suggested that weighted caseloads or case complexity be considered whenever possible.

U.S. District Court staffing projections are made using modifications of the workload staffing measures developed by the Workload Measurements Project in the AOUSC's Human Resources Division. Because the workload measures developed by the Workload Measurements Project were designed to estimate staff needs for budgeting purposes, the Space and Facilities Division found that some modifications were needed to apply them to space planning. (See discussion under Workload Measurements Formulas, page 24.)

Once staff projections are developed and agreed upon by the appropriate officials, then appropriate space standards are developed and applied to determine current and future space needs. For the purposes of facilities planning in the federal courts, the space standards applied are those approved in the *U.S. Courts Design Guide*.

(2) Implementation Planning.

Master planning compares space needs with space shortfalls and develops both short- and long-term strategies for upgrading or supplementing existing facilities. In courts with relatively slow growth, for example, where operational obsolescence has finally reached a critical point, the implementation plan may consist of only renovating a single facility, or perhaps adding a nearby office building. In larger or faster growing areas, a whole series of activities may need to take place, which may include the immediate renovation of an existing facility, the subsequent development of a new stand-alone facility to be built on a new site, and the development of a supporting office building, perhaps to be connected to the new courthouse within 10 or 15 years.

The purpose of long-term projections at this stage of planning is to aid in the preparation of strategies for meeting the identified needs over a given planning horizon. By examining long-term needs and evaluating existing resources, facility reuse, renovation, or expansion can be considered in the context of overall needs. As strategic planning takes shape, short- and long-term budgets, funding options, and specific schedules for implementation can be planned accordingly.

⁴For further information on the various methods of determining judgeship needs, see Task Force on Principles for Assessing the Adequacy of Judicial Resources, *Assessing the Need for Judicial Resources*, National Center for State Courts, 1983.

(3) Architectural Programming.

Development of an architectural space program is the major predesign planning effort. Master planning, which precedes programming, has a general focus with emphasis on existing space deficiencies, general future requirements, broad policies, and general strategies for improvement. Architectural space programming, on the other hand, has a very specific focus. It identifies individual spaces to be designed in a renovation, or new construction, project by name, function, size, and relationship to other component spaces. It makes specific assumptions regarding various preferred methods of operation, and defines specific space standards, design guidelines, and interrelationships.

Although there are many ways to combine master planning and architectural programming, they are distinct planning efforts even if performed by the same planning team within a single project. The objectives of master planning are strategic. Caseload and staffing forecasts, facility evaluations, site selection, and other planning efforts are performed, but only to develop broad solutions. The objectives of architectural programming are very specific--to define the operations and spaces of a proposed facility in a manner that permits the architectural design team to prepare design documents.

WHAT OTHER JURISDICTIONS DO

Only twelve states have prepared a statewide court facility master plan, including Colorado, Connecticut, Georgia, Hawaii, Illinois, Michigan, New York, North Carolina, North Dakota, Pennsylvania, Rhode Island, Utah, and to our knowledge only Colorado regularly attempts to update its facility plan.

Several other states have developed, or have instituted, facility guidelines or standards for courts, including Arkansas, California, Colorado, Georgia, Kentucky, Maine, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New Mexico, New York, North Carolina, Ohio, Tennessee, Vermont, Virginia, and Washington.

Of those states that have completed courthouse facility master plans, most have hired consultants to do so, including Georgia, Hawaii, Illinois, and Utah. Only Connecticut and Colorado have completed theirs in-house, while Michigan, Pennsylvania, and North Carolina made use of university resources.

A survey of states to determine what factors are used in determining judgeship needs (NCSC, March 1993) found that only 16 states attempt to forecast caseloads. (See Figure 1).

It is evident from the survey results that few state court systems are attempting to do what the AOUSC is attempting by preparing facility long range plans for all of the federal courts. Where space facility planning occurs among the state courts, the methods used are generally limited to simple regression analysis and trend analysis.

Figure 1
Purpose for Caseload Forecasting and Forecasting Methods
Used by State Judicial Systems

State	Purpose for Forecasting	Years Projected	Forecasting Methods
California	Budgeting purposes.	NR	NR
Colorado	Estimating future judgeship needs, reporting, future facility needs, and special requests.	Budget - 2 yrs Facilities - 10 + yrs	Weighted averages and linear regression.
Delaware	Determining future resource requirements.	NR	Trend line; linear regression.
Florida	Two year projections for resource and budget requirements. Forecast prison populations. Special request and projects.	2 Yrs.	Time series, ARIMA.
Hawaii	Facilities planning; multi-year program and financial planning; budget justifications.	NR	Trend analysis; bivariate regression.
Idaho	To determine judgeship needs. Facilities planning at request of local courts.	Judges - 5 yrs Facilities - 10+ yrs	Average percentage increase in cases over 10 year period. Filings to population ratios.
Kentucky	Done in past to determine judgeship positions and to realign circuits and districts. Not done for several years.	NR	NR
Maryland	Projects workloads from baseline data by jurisdiction and divided by full-time equivalency measures to determine judgeship needs.	NR	Linear regression.

Michigan	Future resource needs.	NR	NR
Missouri	NR	NR	Linear regression.
New Jersey	To determine the number of judges needed for clearance.	NR	Percent change in case filings/dispositions.
New York	Budgeting and facility planning	3 Yrs.	Projection analysis
North Carolina	Budget justifications.	NR	ARIMA
Pennsylvania	To approve workload demands over short-term.	NR	Various methods including Box jenkins or simple extrapolation.
Vermont	Budgeting.	NR	Regression analysis.
Virginia	No specific use, upon request of local courts.	NR	Simple trend analysis; linear least squares.

NR=Not Reported

The following discussion covers some of the more interesting features of state forecasting and space planning functions for selected states.

Colorado

The Administrative Office of the Courts in Colorado prepares a master plan covering all judicial facilities within the state. This plan is updated about every five years. Covered in the plan is an inventory of all courthouse in the state, including their condition and available gross square feet. Fifteen year projections are made of the number of judgeships, court staff, and estimated gross square feet required.

The estimated number of District Court judgeships for each county is projected by dividing the number of projected future cases by the number of case filings that one judge is expected to be able to handle as determined by the Supreme Court of Colorado. Separate estimates of the number of judges is made for district court, county court, and magistrates. Magistrates handle domestic relations and juvenile matters in District Court and traffic and small claims in County Court. (The weighted caseload goals for both urban District and County Courts are shown below.)

Weighted Caseload Standards for Urban District Courts

Case Type	Number of Cases/Judge
Domestic Relations	1,549
Civil	760
RL 120	5,974
Probate	1,287
Juvenile	1,394
Mental Health	2,040
Criminal	774
Water	1,101

Weighted Caseload Standards for Urban County Courts

Case Type	Number of Cases/Judge
Civil	5,319
Small Claims	3,478
Traffic	5,651
Infractions	6,459
Misdemeanors	2,826
Felony Complaints	4,110

The statistical method used to project caseloads is a straight trend line, using historical caseload data. There is no attempt to smooth the data or to try different forecasting formulas, such as power or quadratic curves. The purpose of the forecasting is to obtain a rough estimate of future needs. Because the forecast is redone approximately every five years, an opportunity exists to adjust future projections as conditions change. Judgeship and staffing trends developed through statistical analysis of caseloads are sometimes tempered to reflect the realities of the political and budgeting processes.

The Colorado AOC also uses caseload forecasts for budget and policy planning. Historically, a two-year forecast is done, but the AOC is experimenting with different forecasting formulas. Straight trend lines are no longer adequate because caseloads have changed dramatically in the past several years. These changes have been the result of legislative changes in the courts' jurisdiction and increased law enforcement efforts, particularly in the areas of drug enforcement.

Florida

The Florida Administrative Office of the Courts does caseload projections for every county based on time series and ARIMA annually to determine judgeship needs. The projections are sent to the courts in each county to review and verify the data.

A special committee has been created by the legislature to forecast prison admissions and court caseload data are used in the forecasting models. Like the judgeship needs forecasts, these projections are limited to two years.

Projections also are done on request. For example, the Judicial Council recently requested a 20 year projection of district court appeals in order to determine if there is a need to change geographic boundaries.

No state level facility forecasting is done.

Kentucky

The Kentucky Administrative Office of the Courts has in the past made caseload projections for the purpose of determining judgeship needs and establishing judicial districts. Nothing has been done for several years, however, and there are no plans to do any regular caseload forecasting for the near future.

New York

In 1986, the Governor signed legislation that required each county to prepare a comprehensive facility plan for its courts. NYC hired an outside private, consultant to conduct their study in 1978-88. The plan included an inventory of all court facilities, evaluation of current facilities, and projections of future space needs.

The NYC plan did not go beyond a ten year projection and projections were modified based upon political realities. Judges, for example, are not added in NYC as quickly as might be justified by caseload alone. So judicial staffing projections were modified, or revised downward, based upon an assessment of practical and political considerations.

The New York Office of Court Administration, (OCA) prepares projections of caseloads for all the state's courts each year. Individual projections are done for each court in each county, including general jurisdiction criminal, family, surrogate, and City Courts (criminal only), as well as lower courts, called civil City Court and criminal city court in NYC.

Projections are based on linear regression and exponential smoothing. They use seven years' of data from 1985 to 1992, because data from prior years is considered unreliable. Only three year projections are made.

Once completed the projections are sent to the local courts for review. The OCA makes modifications based upon local comments. This is similar to the process used by the AOUSC, except that local input is not obtained through on-site workshops.

Courts prepare a three-year management plan. Projections are used to estimate future workload and staffing needs which then becomes input to the budget process. Caseload projections are not done for facility planning.

Occasionally the office gets calls from outside consultants working with a particular court asking for caseload data.

THE AOUSC LONG RANGE PLANNING PROCESS

In 1988 the United States Judicial Conference directed the AOUSC to develop a process for determining the judiciary's long range facility needs. The AOUSC, subsequently developed a program for assisting each district to prepare its own long range facility plan (LRP). The plans are based upon 30-yr. projections of court caseloads at 5, 10, 20 and 30 year intervals, which are used to assess judgeship and staffing needs (See section on Workload Measurement Formulas), and which are in turn translated into space needs using established space standards.⁵ (See section on Space Standards and Space Needs.)

Long range planning is done to identify overall court facility needs and to provide information necessary to permit a decision regarding the need to either modify or renovate current facilities, to construct new or additional facilities, and to develop long range strategies for meeting identified needs, as described above under implementation planning. The long range planning does not provide information for the design of facilities, which is done at a later architectural programming phase.

As of June 1, 1993, 74 LRPs have been prepared by the district courts, with the remaining 20 districts scheduled to be completed by early 1995.

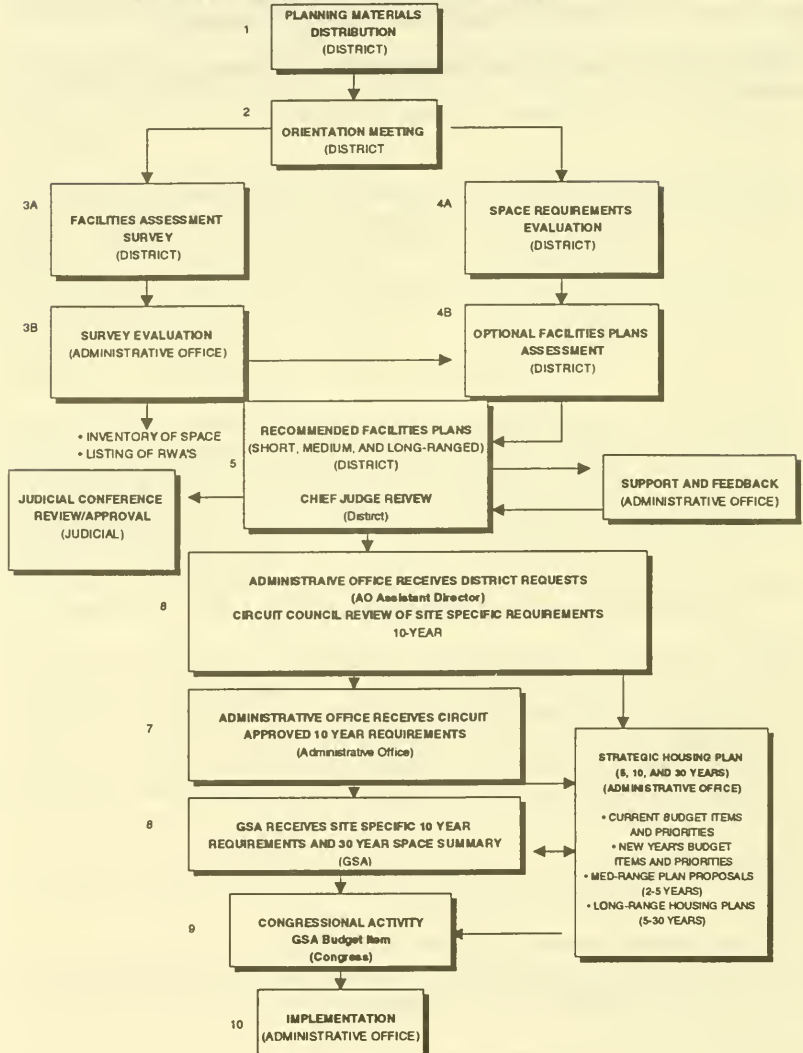
The planning process is designed to allow those most knowledgeable about their court operations and work needs, the district court judges and court personnel in each district, to prepare their own facility plans with information, help, and

⁵Administrative Office of U.S. Courts. *U.S. Courts Design Guide*, August, 1992.

guidance from the AOUSC Space and Facilities Division. The Chief District Judge directs the planning process for his/her district and appoints a Planning Team Leader to administer and coordinate planning in the District.

The space needs projection methodology consists of nine steps as shown in Figure 2.

Figure 2.
LONG-RANGE FACILITIES PLANNING WORKFLOW DIAGRAM:



Step 1. Distribution of Planning Materials

The Space and Facilities Division prepares a planning package that is sent to the Chief District Judge at the planning site (See Appendix A for sample of planning materials prepared for the Southern District of Indiana). The planning package materials are sent also to the U.S. Trustee, GSA Regional Office, Circuit Executive, as well as the GSA's, U.S. Attorney's, and the U.S. Marshal Service's central offices in Washington, D.C. All offices are encouraged to send representatives to attend the on-site planning workshops. The planning package consists of:

- Cover Letter explaining responsibilities of the on-site Planning Team Leader appointed by the Chief Judge.
- Facilities Projection Package which consists of the preliminary space needs projections and socio-economic data for the District.
- Handbook for Long Range Facilities Planning which contains instruction to guide the Local Planning Team through all steps necessary to produce the LRP.
- A three-day agenda for the on-site planning workshop.
- Facilities assessment survey forms which are used in performing a physical assessment of the current court facilities.

At this time the Chief Judge appoints the planning leader, usually the District Court Clerk, who schedules the orientation session with all of the major offices within the district. These include the Bankruptcy Clerk, Chief Probation Officer, Chief Pre-Trial Services Officer, Circuit Librarian, Circuit Executive representative, and Federal Public Defender. Other court-related offices, such as the U.S. Attorney, U.S. Marshal Service and the U.S. Trustee are also included as are the GSA's building representative, regional liaison person, regional planning office, and regional real estate office. Representatives of the GSA executive office, the U.S. Marshals Office, U.S. Attorney's Office, and U.S. Trustee in Washington, D.C are informed of the meeting and invited to attend.

Step 2. Orientation meeting.

The purpose of the orientation meeting is to discuss and highlight major steps and responsibilities in the planning process. Planning materials are distributed before the orientation meeting by the District Clerk to the attending parties (including the Handbook and projections package). The meeting should focus

on the project scope and objectives, steps to be accomplished, areas of responsibility, and the time frames for completing the project. An initial review of the space projections is made at this time

Steps 3a and b. Facilities Assessment Survey and Evaluation.

The survey forms are designed to lead the local planning team through an initial evaluation of each facility to document existing structural conditions. (Each facility in the district is assessed, but time limits the ability to physically tour each facility during the on-site planning workshop.) The survey also documents current space allocations; inadequacies in the use of available space; the building's structural deficiencies; expansion potentials; telephone, electrical, and power capacity; and many other conditions.

The AOUSC completes the survey materials during the planning workshops, in cooperation with the GSA's regional engineering, real estate, building manager, planning, and design representatives. Any items requiring specialized attention or expertise, such as health and safety concerns, structural repairs, or maintenance items requiring budgeting and implementation, are noted.

Steps 4a and b. Space Requirements Evaluation and Optional Facilities Plan.

This phase is conducted concurrently with 3a and b during the on-site planning workshop. In order to evaluate the adequacy of existing court facilities, three points are considered:

- Estimated future space requirements based upon workload projections (supplied by the Projection Package in Step 1);
- Availability of space within existing facilities; and
- Information about the building's structural integrity.

Once this information is in hand, the planning team reconvenes to discuss the gathered information. The questions that the team must answer at this time are

- Will the present facilities support their continued use structurally, physically, spatially, and environmentally?
- How much space will be needed in the future?

- At what point will the present facility(s) no longer have the capacity to house the courts?

At this point the planning team develops a strategic plan for addressing the courts' space and facilities needs over a long range planning horizon. Considerations include whether to move functions out of the buildings (and which functions), use of leased space, renovation or reconfiguration of existing space; and new construction. The team is expected to develop a time-line that addresses these alternatives and the time at which they need to be completed. The final action is to then to estimate costs of the options.

Step 5. Recommended Facility Plan(s) and Chief Judge Review.

A draft facility plan using 5, 10, 20, and 30 year projections is prepared and sent to the District Chief Judge. The Plan covers,

- Conditions and capacity of existing facilities;
- Cost and time frames of various options for meeting the courts' space needs;
- Difficulties in altering designated historic facilities;
- Consequences of dividing user groups into separate facilities;
- Additional factors deemed important by the individual user groups.

The Chief Judge, in cooperation with the other judges in the district, decides on which options to pursue and transmits the decision to the AOUSC along with the final copy of the long range plan. Copies of the long range plan are sent also to the Circuit Council; the chair persons of the Space and Facilities Committee, and the Long Range Planning Subcommittee; and the GSA regional and central offices. Also, working papers from the orientation process are mailed to the central offices of GSA, the U.S. Attorney, U.S. Marshals, and the U.S. Trustee. Judicial Conference approval is expressed through the Conference's Space and Facilities Committee. The committee chair receives copies of all long range plans and, if there are any issues to be resolved, the AOUSC's Space and Facilities Division, as staff to the committee, will work with the committee to resolve them.

Steps 6 and 7. Administrative Office Receives District Requests and Circuit Council Review.

When the AOUSC receives the letter and the final long range plan from the District Chief Judge, the 10-year listing of space needs that summarizes the information for individual sites in the long range plan is prepared by the AOUSC. This 10-year accommodation plan is sent to the Circuit Council's Space Committee.

Step 8. GSA Receives Site Specific 10-Year Requirements. After approval of the site specific action by the Circuit Council, the AOUSC has authority to communicate the District's needs to the regional GSA office, and to request action on any site-specific recommendations. The AOUSC provides the GSA with the 10-year listing of space needs and a summary of potential 30 year requirements.

The 10-year site specific requirements are received at the regional GSA office. GSA may further refine the requirements by hiring an architectural/planning firm to prepare a "prospectus development study" (PDS). (Sometimes this requires a more extensive feasibility study.) The PDS usually includes:

- Summary of space needs;
- Refinement of the AOUSC's space requirements;
- Identification of the agencies that would be moved and where they would relocate;
- Discussion of the historic nature of the facility;
- Discussion of the environmental impact on all aspects of the project, including site and utilities; and
- Project cost estimates for any alternatives that might be considered, including:
 - (1) straight lease,
 - (2) federal construction,
 - (3) design build, and
 - (4) purchase contract.

All of the site specific requests are collected at the GSA regional offices in preparation for GSA's own annual review of capital projects and their capital budget preparation. The courts' requests are combined with all other governmental requests and reviewed by each GSA regional project planning and review board between April and June of each year. Each region then submits

their final list of projects to the GSA central office, where the regional planning products are reviewed and discussed.

Step 9. Congressional Activity.

The final list of projects is selected for submission to OMB and Congress as part of GSA's national capital program. These are reviewed by OMB and the mark-up budget is sent on to Congress. Congressional hearings are held and attended by the AOUSC director and the Chair of the space and Facilities Committee to support the Judiciary's projects.

Step 10. Implementation.

Once Congressional appropriations are received, the GSA develops an implementation plan, informs the AOUSC, who then informs the district of the plan for implementing the LRP, coordinates with the GSA on construction, leasing, repair, and any other actions. GSA is also responsible for coordinating with the U.S. Marshal Service to provide adequate court security.

METHODOLOGY AND STATISTICAL METHODS

Caseload Projections

There are three basic forecasting techniques that can be used in projecting court caseloads. The first is qualitative, the second is based upon historic caseload trends, and the third makes use of other independent variables to forecast future case filings.⁶

The best and most well known of the qualitative techniques is the Delphi method in which a group of "practitioners" makes estimates of future caseloads. All participants are shown the results of the first round of estimates and are offered the opportunity to change their initial estimates. The process continues until consensus is achieved. Similar to the Delphi is the "panel consensus" in which a panel of experts meets to discuss caseload trends and come to a consensus regarding future trends. A third method involves the use of focus groups.

The second method for predicting future caseload is the use of historical caseload data to construct a trend line. Past case filings are plotted and a trend is extended into the future. Trends are based on the assumption that whatever factors influenced caseloads in the past will continue to influence cases in the future. One method for constructing a trend line is to calculate the average

⁶ Flango and Elsner 1982; and Lawson and Gletne, 1980 p. 113.

percent change in case filings over a period of years and then to extend this rate of change (uncompounded) into the future. Another method is to examine the actual number increase for filings and to extend this increase or decrease into the future. Historical techniques generally assume that filings change at a fairly constant rate, and both methods are most effective when historic year-to-year changes have been relatively consistent.

Regression analysis can use data from previous years to produce a line that best represents the overall trend in historical case filings. The line reflects the minimum deviation from the actual data points. This line is then projected into the future. The shorter the projection period the more accurate will be the caseload forecasts, and the farther into the future one predicts, the less reliable the estimate. As a general rule, the more observations one has the better the reliability of the prediction. A common rule of thumb used in forecasting is that between 40-60 data points are needed when forecasting trends. But, even with historical data going back 40 years, projections of more than 15 to 20 years will have very limited utility. Furthermore, the further back in time one goes, the less relevant are those cases to today's and tomorrow's caseloads, because the nature of court caseloads has changed so much over the past twenty years. Additionally, caseload trends may change several times over a 20-year period. For initial planning purposes a 15-year period may represent the best compromise between the need for long term projections required for space planning and the limitations of making future forecasts.

One method of obtaining additional data points, or observations, on which to make projections is to use quarterly, or even monthly, caseload data. A technique that uses monthly or quarterly historical data is the ARIMA method developed by Box and Jenkins (used occasionally by the Florida and North Carolina Administrative Office of the Courts). This technique analyzes and forecasts univariate time series data using an Autoregressive Integrated Moving Average model from which it takes its name. Because of the presence of seasonal and monthly fluctuations, however, it is necessary to make seasonal adjustments to the data by using moving averages to smooth out the monthly highs and lows. (This technique is not feasible when dealing with long range projections and is used most frequently with projections of 1-3 years.) The adjusted data are then used to make future caseload projections similar to the regression method described above.⁷

⁷See *SAS System for Forecasting Time Series*, 1986 ed., SAS Institute, Cary, NC; and Richard McCleary and Richard Hay, Jr., *Applied Time Series Analysis for the Social Sciences*, Sage Publications.

The use of trend analysis, moving averages, exponential smoothing , or Box-Jenkins models all are methods for analyzing historic trends and projecting them into the future. Most time series analyses are best for short-term forecasting. The problem with these methods is that they cannot compensate for turning points (changes in the direction of trends), or different rates of change, which are common with court workloads.

The final category of analysis is the use of independent variables to forecast case loads. The use of variables other than prior case loads, such as population, crime rates, per capita income, or unemployment rates to predict future caseloads may enable forecasters to relate case filings to some other measure which can be projected more easily into the future. The value of particular variables, however, varies by case type. For example, unemployment rates might be good for predicting civil torts, while the number of law enforcement officers is a good predictor of criminal filings. The problem with most such variables is the difficulty in obtaining consistent historic data and projecting factors such as per capita income or unemployment rates far enough into the future to be helpful.⁸

Multi-variate techniques, such as multiple regression, econometric models, and input and output models, simply use more than one independent variable in combination to better predict future case filings ⁹.

Figure 3
Summary of Methods For Estimating and
Projecting Future Needs

Qualitative	Delphi Panel Consensus
Methods Based on Historical Caseload Trends	Actual Number Increase Per Year Average Percentage Change Per Year Linear Regression Box/Jenkins ARIMA method
Multi-Variate	Multiple Regression Econometric Modeling Input/Output Modeling

⁸For a fuller discussion of forecasting methods see, Lawson and Gletne, 1980.

⁹ Lawson and Gletne, 1980, p. 116.

Because nearly all available forecasting methods assume that the future will mirror the past, assumptions regarding future population levels, statutory and policy changes, and staffing levels should clearly be stated and discussed at the beginning of the project. Additionally, results presented in terms of ranges, rather than specific points, are useful because they remind the user that caseload and staffing projections are not precise estimates and that their reliability is limited.

AOUSC Forecasting model

The AOUSC's Long Range Planning Project has developed, over a number of years, a methodology for forecasting caseloads as a first step in the estimating of future space needs. The process combines several of the methods discussed earlier and has been used in over 74 long range plans.

When the project began, the Space and Facilities staff requested the assistance of the AOUSC's Statistical Analysis and Reports Division in identifying forecasting methods appropriate for space and facilities planning. Based on several studies it was concluded that the most appropriate models made use of a trend line based either on straight regression or a quadratic equation.

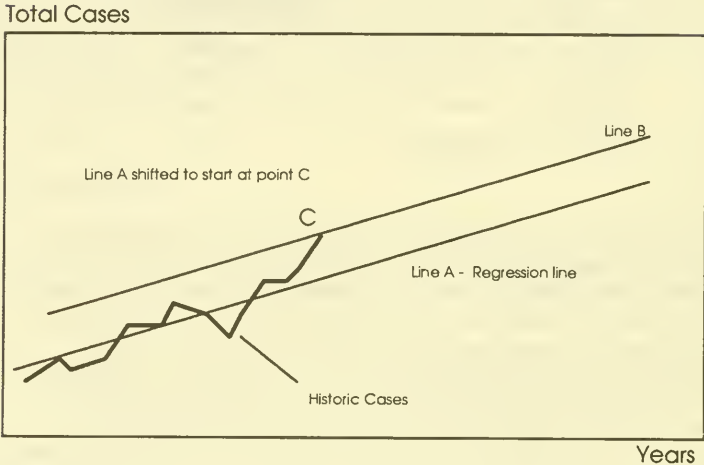
The LRP Project, as part of the pre-site package that is mailed to the district courts, prepares forecasts of four of the district courts' case types: civil, criminal, bankruptcy, and persons under supervision. These are meant to serve as a point of departure for the planning group and as an aid in its discussions. While the project has available to it all statistical techniques, the preliminary forecasts are now made by using either a straight trend line or a quadratic equation to obtain a single projection line. Exponential equations are seldom used because of the large increases in caseload that they forecast over the long run. (Previously, the LRP Project averaged a trend line and quadratic equation to obtain a single projection line.)

When the initial caseload forecasts, made for the on-site planning workshops, exceed three times the current caseload, experience has taught the planning staff that the projections are mistrusted by court staff. Because of this, the projection model limits caseload projections to three times the current caseload. At that point, a standard percentage increase is applied instead of the trend line and quadratic formula. These percentages are based upon average percentage increases found to exist in other districts of similar size. The percentages are shown below.

Case Type	Average Percentage Increase Found in District Court Caseloads
Civil	3 - 5%
Criminal	1.5 - 3%
Bankruptcy	6-9%
Persons Under Supervision	3-4%

A final adjustment to the initial trend lines found in the pre-site forecasting package is made by beginning the projection with the current year's caseload. (A line parallel to the regression line is drawn through the latest year's case filings.) By drawing a parallel line, focus is placed on the rate of increase and this has the effect of emphasizing the most recent year's cases, while de-emphasizing earlier year's (See Figure 4). The reason given for making this adjustment is the confusion that arises when actual cases in recent years exceed the number that is predicted by the trend line. For example, if the current case load is 10,000 cases and the trend line predicts only 9,000 cases in three years, court personnel often are confused in how to interpret the apparent decline in caseload, even though workloads are rising over time.

Figure 4
Adjustment Made to Trend Line to Emphasize Current Year



The second stage of the forecasting process occurs during the on-site planning workshops with court staff. The original caseload and staffing projections are reviewed by the local court practitioners who provide input into making adjustments to the staffing projections based upon their experience and knowledge of their district. This is a version of the Delphi, focus group, or consensus panel methods mentioned earlier.

Recommendation 1. The original staffing projections obtained through the use of statistical projections of historic caseloads should be modified during the on-site workshops only if there is a demonstrated need to do so. The burden of proof should be upon those wanting to make changes to the original estimates. *The Guidelines for Assessing Judicial Needs*, issued by The Task Force on Principles for Assessing the Adequacy of Judicial Resources places the burden of proof on those who wish to make changes to the original projections. Reasons why the subjective staffing estimates should override the statistical estimates should be stated explicitly.

The persons attending the planning workshops include the District Clerk, Bankruptcy Clerk, Chief Probation Officer, Chief Pre-Trial Services Officer, the Federal Public Defender, the Circuit Librarian, and a representative of the Circuit Executive's Office. Other court-related offices, such as the U.S. Attorney, U.S. Trustee, and U.S. Marshal Service are also included as are the GSA's building manager, and the GSA's regional real estate and planning representatives. As a group, these representatives review the initial caseload projections, discuss their accuracy based upon their experience with the conditions in their district, and suggest changes in the caseload and staffing projections. Any instructions provided by the planning group to the project staff are then incorporated into revised caseload and staffing projections which are presented to the planning workshop on the second day for confirmation and further changes.

While the initial projections certainly influence the discussions and decisions regarding the caseloads, they are meant as a point of departure and guidance to the local court representatives. The projections give the planning group a reference point upon which to make relative decisions, regarding future caseload trends. The members of the planning group may accept or make alterations to the caseload and staffing projections. All changes, however, must be documented clearly as part of the final report in a written assumption memo.

Graphic Presentations. How information is displayed can greatly affect its interpretation. Everything from the type of chart used (bar, line, pie) to the way labels are written, or the scale that is used can alter the message that is received. The projections contained in the planning package use bar graphs to show the historic and projected district caseloads. Graphically this may tend to confuse the reader by making little visual distinction between historic and future cases.

Recommendation 2. In the supporting graphics produced during the planning process, historic and future cases should be displayed differently in order to emphasize the difference between actual cases and future estimates. It is suggested that if bars are used to display historic cases, that a line be used to display the trend or regression line.

Another issue with graphic presentations is the scale that is used. It is common practice to make use of different scales to display different case types. For example, if the maximum number of cases filed is 1,000, we would not choose a scale that shows 50,000, because any changes in the caseload would be too

small to notice. Where several case types are being graphed in different charts, it is likely that each will have its own scale, because the range of case filings is likely to be different for each case type. This has the unfortunate effect of making it difficult to make comparisons between case types, the different scales distort the rate of change. What might appear to be a large increase in one case type with a very small caseload might be insignificant when compared to another, but larger, caseload that has a more gradual increase in cases. If graphed on the same chart with the same scale the relative importance of each case type can be kept in perspective.

Recommendation 3. The AOUSC planning staff should be careful, or at least aware, of the impact different scales have on the presentation of data. A small scale can easily distort a trend line, especially when the chart next to it has a different scale that may dampen a trend. Whenever possible use the same scale on different charts, but when this is not possible, try to highlight the difference in scale.

Additionally results presented in terms of ranges, rather than specific points, are useful because they remind the user that caseload and staffing projections are not precise estimates and that their reliability is limited.

Recommendation 4. Use ranges of caseloads whenever possible to remind the reader that future projections are only estimates, particularly during the on-site workshops.

WORKLOAD MEASUREMENT FORMULAS

The AOUSC's Workload Measurement Project has developed workload staffing measures for the District Courts, Probation, Pretrial, and the Bankruptcy Courts. As an example, the district clerk staffing formula (Figure 5) contains 36 separate factors for calculating the staffing needs of the district courts. A certain number of hours are assigned to each of the factors. For example, 2.66 hours are allowed for each civil overpayment. This includes all activity related to the recovery of overpayments and enforcement of judgment of cases filed: Medicare, student loans, and veteran's benefits.

Figure 5
District Court Staffing Factors
Developed by The Workload Measurement Project

Item	Staffing Factor
Pro Se Legal Factor	209 Petitions
Pro Se Deputy Clerk Factor	8.345 Hrs/Prisoner Petition
Civil Overpayments	2.66 Hrs/overpayment
Civil Others	6.972 Hrs/Civil Filing
Felony Defendants	7.93/Hrs/Felony Def.
Misdemeanor Defendants	1.62 Hrs/Misd./Def.
Petty Offense Defendants	.10 Hrs/Petty Offense
Grand Jurors	1.24 Hrs/Grand Juror
Petit Jurors	.36 Hrs/Petit Juror
Civil and Criminal Appeals	5.44 Hrs/Civil and Criminal Appeal
Courtroom Activity and Case management Activity (Active Judges)	1.14 FTE/Active Judge
Courtroom Activity and Case management Activity (Senior Judges with Two Authorized Law Clerks)	1.14 FTE/Sr. Judge
Courtroom Activity and Case management Activity (Senior Judges with One Authorized Law Clerk)	.57 FTE/Sr. Judge
Courtroom Activity and Case management Activity (Full Time Magistrate Judges)	1.14 FTE/Magistrate
Naturalization Petitions	.22 Hrs/Petition (Automated) .51 Hrs/Petition (Non-automated)
Attorney Admissions	1.44 Hrs/Atty. Admitted
Court Reporter Supervision	50.39 hrs/Reporter
Electronic Recorder Operations	1.25 Hrs/Court Proceeding
Finance	.50 Hrs/Check Disbursed
CJA Vouchers	1.54 Hrs/CJA Voucher
Arbitration	111.30 Hrs/Arbitration Case
Interpreter Coordination	.16 Hrs/Proceeding (Ct. w/Staff Interpreter) .75 Hrs/Proceeding (Ct. wo/Staff Interpreter)
Miles Traveled	1.00 FTE/60,000 Miles
Staffed Divisional Offices	.66 FTE/Divisional Office
Resident Deputy Clerks in Divisional Offices	.05 FTE/Deputy Clk.
Administrative Support	.077 Hrs/Hr Received from factors 1-25
Space and Facilities	91.0 Hrs/Staffed Office and Active Judge
Space Projects	Not Available
Baseline Systems Support	41.20 Hrs/PC or 1.0 FTE/43 PCs
Systems Administration	1.0 FTE/District
Automated Civil System Support	1.0 FTE/Automated District
Automated Criminal System Support	1.0 FTE/Automated District

Quality Control	.75 Hrs/Civil filing or Criminal Def. (Automated Cts.) or 1 FTE/2350 Automated Filings for Quality Control
Training	40 Hrs/Employee
Management Supervision	.10 Hrs/Hrs Received from Factors 1-34
Clerk of Court	1 FTE
Master Jury Wheel	.0147 Hrs/Name in Master Wheel (Automated) .1010 Hrs/Name in Master Wheel (Non-automated)

The staffing formula uses a total 1763.04 available hours for one full-time equivalent (FTE) position. This excludes all types of leave (sick, vacation, and administrative) and holidays.

These staffing factors developed by the AOUSC's Workload Measurement Project are used to determine court staffing needs and are calculated annually for budgeting purposes. Using current case filings and estimated future case filings prepared by the Statistical Analysis and Reports Division, the staffing needs for each district are determined. Projections are limited to three years.

The Workload Measurement Project has been revising the staffing factors for the District Clerk's, Probation, Pretrial, and Bankruptcy Courts that are used for budgeting projections. Additional staffing factors have been added to the formula and the staffing requirements for the courts were found to have increased by an average of about 15%. That is, increased tasks now require about 15% more time to complete than under the previous formula.

The staffing factors used by the Long Range Planning Project are derived from the above staffing formulas developed by the Workload Measurement Project. The ratios used by the LRP were developed from the average of filings to personnel in each of four model categories, and are designed to generally approximate the results of the official formulas used by the AOUSC. Because each individual district varies somewhat from the standard model and has somewhat different average growth trends, Space and Facilities decided not to use just one staffing model for all 94 districts, e.g. they needed to take into account the variations in size of the districts. Four general growth models, based upon size of court, were developed for long range facility planning purposes. (See Figure 6 for characteristics of the four growth models and Figure 7 lists the specific measures used by the Space and Facilities staff for each of the growth models.)

Figure 6
District Court Growth Models Used by Space and Facilities
1991 Characteristics and Averaged Statistics

Characteristic	Growth Model 1	Growth Model 2	Growth Model 3	Growth Model 4
Caseload	Under 5,000	5,000 - 10,000	10,000 - 20,000	20,000 & above
Pop. per Sq. Mile	99	153	282	622
Ave. Annual Pop. Growth	0.27%	0.375	0.57%	1.04%
% Unemployment	4.4%	5.0%	5.2%	4.5%

Caseload includes all filings used in the long range planning process: criminal, civil, bankruptcy, and persons under supervision.

Recommendation 5. Use of the four growth models should be reviewed to make sure that they reflect significant differences between groups of districts and define unique categories of districts.

The use of the four growth models may institutionalize existing levels of efficiency into the AOUSC planning model. While it is clear that real differences in staffing patterns exist between districts, particularly between urban and rural districts, it is not clear that all differences relate to real variations in the nature of the work being performed. It is suggested that the judge and staff ratios used to determine space needs should reflect staffing patterns in the more efficient courts. One option would be to make use of staffing ratios from the upper one-half of the districts that are meeting case processing standards, or that process cases most efficiently.

Figure 7
Staffing formulas used by Space and Facilities for
Long Range Facilities Planning (1991)

Personnel Type	Model 1	Model 2	Model 3	Model 4
District Judge	1/363 crim. & civil cases	1/426 crim & civil cases	1/496 crim & civil cases	1/541 crim & civil cases
Sr. District Judge	.33 per District Judge	.33 per District Judge	.4 per District Judge	.45 per District Judge
Magistrate Judge	.33 per District Judge	.5 per District Judge	.5 per District Judge	.7 per District Judge
D.C. Deputy Clerk	64 crim/civil cases/6 per judge	73 crim/civil cases/7 per judge	82 crim/civil cases/8 per judge	94 crim/civil cases/9 per judge
Bankruptcy Judge	1 per 1,424 bankruptcy filings	1 per 1,468 bankruptcy filings	1 per 2,172 bankruptcy filings	1 per 2,428 bankruptcy filings
B.C. Deputy Clerk	122 filings/12 per Bankruptcy Judge	122 filings/12 per Bankruptcy Judge	142 filings/14 per Bankruptcy Judge	172 filings/15 per Bankruptcy Judge
Probation Officer	1 per 30 persons under supervision	1 per 31 persons under supervision	1 per 31 persons under supervision	1 per 31 persons under supervision
Probation Clerical	.63 per PO	.63 per PO	.62 per PO	.60 per PO
Pre-Trial Officer	105 criminal cases/113 defendants	110 criminal cases/105 defendants	115 criminal cases/121 defendants	90 criminal cases/95 defendants
Pre-Trial Clerical	.6 per pre-trial officer	.66 per pre-trial officer	.57 per pre-trial officer	.54 per pre-trial officer
Public Defender Atty.	110 criminal cases/113 defendants	101 criminal cases/105 defendants	101 criminal cases/106 defendants	76 criminal cases/81 defendants
Investigator	.25 per attorney	.25 per attorney	.25 per attorney	.22 per attorney
Paralegal	.210 per attorney	.10 per attorney	.10 per attorney	.10 per attorney
Public Defender Clerical	.60 per attorney	.60 per attorney	.63 per attorney	.69 per attorney
Circuit judge	.33 per district court judge	.33 per district court judge	.30 per district court judge	.25 per district court judge
Senior Circuit Judge	.33 per circuit court judge	.50 per circuit court judge	.30 per circuit court judge	.66 per circuit court judge

Source: AOUSC, Long Range Planning Project, *Long Range Facility Plan, Southern District of Indiana*, March 1993.

SPACE STANDARDS AND SPACE NEEDS

The space standards used are those from the *U.S. Courts Design Guide* which was last updated in 1992. The following standards were used recently in the Long Range Facility Plan for the Southern District of Indiana

Space/Office	NSF
District Court Judgeship	6,145
Senior District Court Judgeship	6,145
Magistrate Judge	4,695
Deputy Clerk	125
Court Reporter	300
Bankruptcy Court Judgeship	4,770
Bankruptcy Deputy Clerk	125
Probation Officer	150
Probation Support Staff	125
Pre-Trial Services Officer	150
Pre-Trial Support Staff	125
PD Attorney	200
PD Investigator	150
PD Paralegal	150
PD Support Staff	125
U.S. Circuit Judgeship	2,480
Circuit Sr. Judgeship	2,480
Circuit Library	5,000
Library Staff	150

Once total net square feet (NSF) is calculated based upon the staffing estimates and space standards shown above, gross square feet can be found by adding a grossing factor to account for spaces that are not itemized (court support functions) and circulation. Court support requirements are calculated at 25% of the net square feet (NSF), and circulation is calculated at 20% of net square feet. Both of these factors are added to the total net square feet to obtain estimated building gross square feet.

ISSUES

The AOUSC planning process, because of its detail and reliance on quantitative measures and detailed evaluations, gives the impression of much greater precision than perhaps is warranted. Error can enter the calculations at each of the three stages, (1) caseload projections, (2) staffing analysis, and

(3) application of space standards. All parties concerned in the planning process should be reminded that facilities planning is a multi-phased exercise and that the goal is to provide the courts with needed space. There are several steps to any facility planning process and estimates made in the beginning are only preliminary, because there will be opportunities to update them as the project progresses.

The planning process consists of answering a series of questions in a particular sequence. The threshold question is whether current space is adequate. If adequate now, will the courts require additional space in the near future. If not, then no further planning needs to be done for several years until the original plan is updated and the first questions need to be answered again (plans should be updated regularly, for example every five years).

When it is decided that the court's facilities are currently inadequate, or will need improvements within the short term, then a formal long-range planning process needs to commence. The planning process should review the complete space needs of the court and culminate in a plan (strategy) for meeting the court's needs over the long term. It is at this point that specific alternatives for the site will be presented, evaluated, and selected.

There are several factors that appear to have led to confusion about the AOUSC's long range planning process. First, the space standards and the concept of what is adequate for courts has changed considerably over the past 20 years. Also the standards themselves have changed over the past several years, representing a different definition of space requirements. Second, the application of staffing measures has changed over the years as they are revised to account for the changing nature of work in the courts, and different staffing measures will be applied in the future as they are periodically revised.

The crucial question that can only be answered by applying judgment to quantifiable data is "at what point should a new courthouse be constructed?" How much of a space shortage should exist and how dysfunctional, or how inefficient, should a facility be before a new building is justified? There is no standard rule for answering this question.

Issues Raised by GSA Feb. 1992

The GSA, in a letter to Ralph Mecham dated February 5, 1992, raised several issues related to the AOUSC's Long Range Facility Planning Process. While applauding "the Courts undertaking of a systematic review of their present and future space needs," they questioned the accuracy of the forecasting model and

the personnel projections used during the on-site planning sessions. Among their concerns were the following.

1. Caseload forecasts are a function of time. Most caseloads increase over time, but is time the cause or are caseload changes the result of other factors? The GSA felt that case filings should be linked to changes in population, and questioned why courts are expected to continue growing at historically high rates when population is tapering off.

Comment: Case filings are highly correlated with population, but there are factors other than population that also affect case filings, e.g., changes in government policy, legislation, and society. In his analysis of civil filings, Marc Galanter found that increases were not uniform across case categories, but a response to specific conditions.¹⁰ For example, between 1960 and 1986, Galanter found that civil cases increased by 114%, contract cases 258% and prisoner petitions by 1,450%. The dramatic increase in prisoner petitions was not explained by growth in general population or even growth in prison population, but by an increase in the proportion of prisoners filing civil rights complaints about conditions of confinement. The correlation between filings and growth or changes in population is less correlated because the percentage change in population tends to be small compared with the relatively large percentage changes in caseload.

While there are of course many independent variables that might be considered when trying to estimate future caseloads, the costs involved in doing so are not warranted for long range facility planning purposes. The AOUSC's Statistical Analysis and Reports Division, however, spends considerable resources developing accurate caseload forecasts for budgeting purposes, because the importance of budget appropriations to the continued operation of the courts makes the time and effort worth the money spent to research various forecasting techniques and to continually test the accuracy of independent variables.

While facility planning, particularly long range planning, requires less precision, initial forecasts should be checked and updated, perhaps several times during the planning process, to validate preliminary results and to make adjustments.

¹⁰Galanter, 1988.

2. The growth in space needs includes perceived deficits. GSA appeared to be unclear as to how the AOUSC calculates deficits and what they include. There was concern that the courts are asking for space just because it is recommended in the *U. S. Courts Design Guide*, whether or not it is needed now.

Comment: There are two types of deficits. One involves spaces in the courthouse that are missing but which are essential to its operation. An example of this deficit space is a jury assembly room which is not available or so small that it cannot function properly. The second deficit results from the application of current or revised standards from the *U.S. Courts Design Guide* to existing spaces which when measured against the current standards may be deficient, but which are none-the-less still functional.

The first type of deficit would be taken into account when space needs are being calculated for the long range plan. The second type of deficit is not included by the AOUSC in the calculation of needed space for the purposes of deciding what to do with the existing facility. (It would be included in any calculation of space needs for a new facility once that decision has been made.)

3. The planning does not take into account improved staff and judge productivity resulting from technology and increased use of technology.

Comment: While this may be true for some long range planning sessions, these factors have been included in the discussions of future workload during some of the planning workshops. The use of electronic telecommunications can dramatically affect the need for attorneys to visit the court and clerk's offices to file papers and review case files. The storage and retrieval of court records will be revolutionized in the future and should have dramatic impacts of the amount of space needed to store court records. Many of these changes are now being experienced by both state and federal level trial courts.

GAO Issues Raised at Their Presentation

The GAO in their briefing of February 19, 1993 raised a number of issues that are summarized here.

1. Inconsistencies in how districts have been treated.

Space standards have changed over the years since the AOUSC first began their long range planning and the AOUSC has not gone back to revise their earlier plans.

Comment: While forty years of data are used by the AOUSC to do long range forecasting, the same forty years have not been used in each district. LRPs completed recently have included more recent filing data than those done several years ago.

This seems somewhat unavoidable if, in order to make the best projections, it is necessary to make use of the most recent caseload data. Additionally, plans are reportedly updated approximately every two years by the Districts.

Recommendation 6. The same time frame (40 years of date) should be used for all districts, but the data from more recent years may be plotted on the same graph and used to determine if adjustments are necessary. A technique, such as exponential smoothing, should be used so that the more recent data is given greater weight in determining the trend line.¹¹

2. Establishment of Baseline.

Comment: GAO questions the method by which Space and Facilities' Long Range Planning Project calculates the baseline. They believe that the baseline should be calculated using the current occupied space in the facility, not by including space recommended by the standards but not currently available. It is our understanding that the AOUSC follows the process suggested by the GAO and does not include additional space just because it is recommended by the *U.S. Courts Design Guide*.

3. Use of Subjective Assessments.

Comment: The AOUSC applies adjustment factors to their projections based upon the experience and perspective of local court managers. GAO argues that this subjectivity results in poorer projections. The opposite argument can just as easily be made: That by making use of the experience of court personnel familiar with their caseloads the statistical projections can be more accurate, that the courts can take into account non-quantifiable trends. Also, changes to the statistical projections are

¹¹ See Levenbach and Cleary, p. 100.

documented through the assumptions memos that are drawn up by the court team leader.

Statistical analysis cannot predict turning points in the caseload data. Experience has shown that there may be several such turning points during a twenty year period. The use of more subjective techniques such as the Delphi or consensus panels may in fact improve the predictive value of statistical models. Only evaluations over time can determine which forecasting methods are best in this situation.

4. *Lack of Precision in 30 Year Projections.*

Comment: Thirty year projections will lack precision and reliability. With the exception of facilities planning, no public jurisdiction to our knowledge makes use of workload projections in excess of a few years. But the nature of public buildings which are expected to last for 30 to 50 years, requires at least some attempt to make long range projections.

Caseload Projections

Methodology. The Space and Facilities Division uses a combination of methods when doing caseload forecasting. The basic approach is to construct a trend line by averaging two projection curves, one a trend line and the other based on a quadratic equation. The resulting composite line is used as a starting point for caseload projections when meeting with the district planning committee. Once the trend line is projected, adjustments are made based upon the assessments of district court staff, similar to the Delphi or panel consensus methods.

The formula used by the Space and Facilities Division also gives greater weight to filings from the most recent year, by shifting the projection line to the current year's case filings, regardless of the number of filings predicted from past trends as a whole.

Recommendation 7. The AOUSC should continue using two separate forecasting methods (trend line and power curve), instead of its previous technique of averaging these two separate forecasting methods.

One of the values in using regression analysis to make future projections is the ability to construct confidence intervals around the trend line. This aids greatly in interpreting the potential accuracy of the projections. Averaging the two trend

lines makes the use of confidence intervals impossible. It is suggested that both curves be shown so that they might represent high and low estimates as suggested in recommendation 4

Length of Projections. The Long Range Plans are constructed using a 30 year time frame. The Facility Projection Package that is sent to the district planning committee prior to the on-site workshop contains caseload and staffing projections for 5, 10, 20, and 30 year intervals. These are reviewed with the committee and with individual court units and non-court agencies to assess their reasonableness and make adjustments based upon their knowledge of everyday court operations.

At this preliminary stage of the planning process, the use of a thirty-year planning horizon provides a different perspective to the court's space needs than would a shorter time frame. When a thirty-year time frame is used for the initial needs assessment, there may be a tendency to view short-term space shortages as more critical than they might otherwise be. Given the high growth rates in caseload over the past ten years, nearly every district in the country will be perceived as requiring additional space. Projections that predict the eventual need for additional space, or even a new courthouse, prejudice the initial decision of whether planning for a new facility needs to begin at this time. It is not certain that the high growth rates of the 1980's will continue, and caution should be exercised when using long-term projections to make decisions about the need for new facilities beyond 10 years. Once the decision is made, however, then long term forecasting is necessary for planning particular projects.

Recommendation 8. The initial planning phase should encompass a much shorter time frame, perhaps 15 to 20 years. Only if the evaluation of the current facilities, or short term growth estimates (fifteen to twenty years), justify a new facility should a complete thirty-year plan be done as part of master planning and programming phases.

Prior to design, a facility master plan should be commissioned to determine how best to satisfy the court's long term (thirty year) needs. If a new building is not justified by using an 15-20 year projection, then alternative improvement solutions such as renovation, building an addition, or use of leased space, should be tried.

Calculation of Baseline. When calculating the baseline, the AOUSC adds to the current available space in the courthouse, space for areas that are currently not present, but which are essential to the effective functioning of the court. For

example, if the courthouse does not have a grand jury room or holding cells, space for these areas will be added to the current occupied space to arrive at the baseline, or current need.

Space and Facilities staff then adds to the baseline an estimate of the additional future space needed, which is calculated by multiplying the NSF standard (See Housing Statement in Long-Range Plan in Appendix A) by the number of additional staff that has been estimated for the future. To this is added an additional 25% to cover unidentified support functions, and then another 20% is added for corridors, circulation, and other common areas.

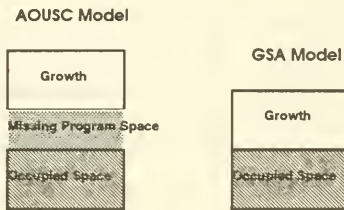
GSA believes that the current space deficit should be ignored when determining the baseline and that only current available space should be counted as the baseline (See figure 8). If this standard is adopted, the estimates of space needs will be lower than those projected by the AOUSC.

There are two parts to the space deficit as used by the AOUSC. The first part consists of the spaces that are currently unavailable but which are essential to the effective functioning of the court. The second part of the deficit is made of areas in the courthouse which are short of space, according to current space standards, but which remain functional. That is, if standards for courtrooms change so that a standard district court trial courtroom is now 2,400 NSF instead of something smaller, then the added space becomes part of the deficit. This does not mean that an existing 2,000 square foot courtroom is not functional and cannot be used.

The AOUSC includes the first part of the deficit in its baseline calculations but excludes the second part, when preparing its long range plan. (The second part of the deficit, however, will be counted in the future at the point that a new facility is programmed and designed, according to then current space standards.) The GAO and GSA are correct in asserting that just because the standard for a judge's chamber, or courtroom, changes that the resulting "deficit" in space is not necessarily justification for a new facility. Only if the "missing" space adversely affects the courts' effective operation should it be included in the baseline calculation. It is a matter of AOUSC policy that deficits arising from the application of new space standards are not sufficient criterion for abandoning the building. The Judiciary tries to make use of older courthouses for as long as possible and only when other significant deficiencies exist will it be recommended that the courts move from the building.

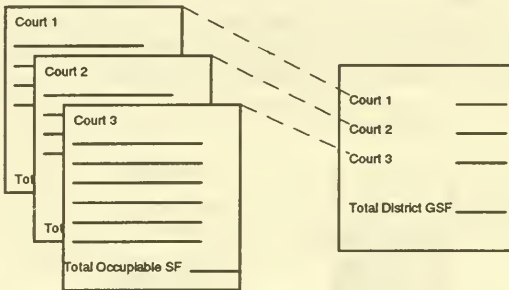
Recommendation 9. Space for areas that are currently not present, but which are essential to the effective functioning of the court, should be included in the calculation of the baseline.

Figure 8
Comparison of AOUSC and GSA Methods
of Estimating Total Space Needs



As a result of GAO and GSA questions concerning the baseline calculation, the Space and Facilities staff has been testing a new method, referred to as the "Any Courts Method" for estimating total district space needs for the long range plans, which may prove to be more accurate (See Figure 9). This method is similar to the approach taken by facility planners when programming a facility. The new method determines total space needs by aggregating the space needs of all court functions in the facility and then adding space estimated to be needed for future growth. In contrast, the present method adjusts the current occupied space by adding a deficit and then adding space for future growth.

Figure 9
Any Courts Model for Estimating Districtwide Space Needs



Once each facility is completed, total district space needs are estimated by aggregating the space needs of each specific site within the district. [The current method takes current occupied space, adds a deficit and growth factor, and then adds 20% circulation and 25% factor for unidentified support spaces.]

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Appendix A
Planning Materials Prepared for Southern Indiana Work shop.

Southern District of Indiana

Facility Projection Package



Administrative Office of the U.S. Courts

March 1993

The Projection Process

This Facilities Projection Package is provided as a companion document to the Handbook on Long-Range Facilities Planning. It's purpose is to provide the planning team at each District with a starting point and logical basis for predicting future space requirements. Estimated future space needs are based upon projected changes in caseload and related staffing patterns. History has shown that as the caseloads have grown, staffing resources have also increased; and unless proper facility planning is undertaken at an early point, adequate permanent facilities will not be available in a timely fashion.

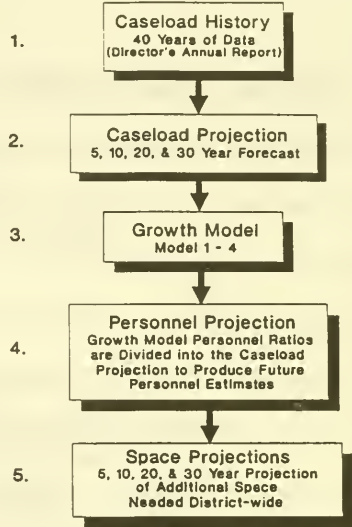
Providing proper facilities requires a long lead-time process. It frequently takes four or more years to provide courtroom, chambers, and staffing areas for newly appointed judges. Additionally, it can take seven to ten years to complete the construction of new facilities or major renovation projects. Yet, the alternative to proper long range facility planning are various combinations of temporary projects or "quick fixes" which often include attendant dysfunction, wasted expenses, and lost court productivity and effectiveness.

Figure 1. illustrates the projection process. It shows the

flow of how 40 years of caseload data are used in the forecasting process to generate caseload projections. These projections are then placed into an appropriate growth model. Four growth model types have been developed for the purpose of long range planning. The Districts in each model have similar filing patterns and socio-demographic characteristics. Caseload to personnel ratios from

Figure 1.

Flow Chart of the Projection Process



each model type are used to translate the caseload forecasts into personnel projections. Finally, the future personnel estimates are assigned square footage amounts from the March, 1991 United States Courts Design Guide. In this way, future space projections are translated through caseload forecasts and personnel estimates.

The caseload, space, and personnel projections are all based upon an initial set of assumptions that have a direct impact on the outcome of the

projection process. The first assumption is that the caseload data are reliable. The 40 years of historical caseload data used in the projections were obtained from the Annual Report of the Director of the Administrative Office of the U.S. Courts. The second assumption is that the past trends contained in the historical caseload data will be repeated. If the past trends continue, the forecasts provide a possible "picture" of what the future may hold. And finally, the third assumption implies that there will be no extreme factors affecting the future projection trends.

In providing the projections contained in this report we have worked with the Statistical Analysis and Reports Division (SARD) of the Administrative Office to develop statistically based approximations of caseload forecasts. These forecasts project the District-wide filing totals for the next 5, 10, 20, and 30 year outlook using a statistical regression technique.

Our experience has shown that all Districts have unique growth trends, filing patterns, and personnel resources. To simplify the complexities in each District we have developed four general growth models. Table 1. reveals several characteristics and averaged statistics for each model. In general, growth model 1 contains the Districts that are slower growing and often spread out over large geographical areas. Also included in this model are many of the

Districts that predominantly consist of one city. The second growth model represents what you might call the "typical" District. The trends identified in model 2 are based upon steady and consistent growth patterns. Model 3 includes the Districts that contain

Table 1.

Four District Growth Models
1991 Characteristics and Averaged Statistics

	Growth Model 1	Growth Model 2	Growth Model 3	Growth Model 4
• Caseload	Under 5,000	5,000- 10,000	10,000- 20,000	20,000 & Above
Population per Square Mile	99	153	282	622
Average Annual Population Growth	0.27%	0.37%	0.57%	1.04%
Unemployment Percentage	4.4%	5.0%	5.2%	5.6%

• Caseload includes the number of all filings used in the long range planning process: criminal, civil, bankruptcy, and persons under supervision.

many of the nation's larger cities. These Districts usually are composed of a variety of socio-demographic characteristics and maintain a fast growing caseload. Finally, growth model 4 includes the Districts that have the largest and fastest growing caseloads in the nation. The Districts in this model contain the largest metropolitan areas with the most complex socio-demographic characteristics.

Table 2. identifies the caseload to personnel ratios associated with each model type. By utilizing the "rule of thumb" personnel formulas presented in

Table 2.

1991 Average Caseload and Personnel Statistics

PERSONNEL TYPE	GROWTH MODEL 1	GROWTH MODEL 2	GROWTH MODEL 3	GROWTH MODEL 4
DISTRICT JUDGE	1 per 363 criminal & civil cases	1 per 428 criminal & civil cases	1 per 486 criminal & civil cases	1 per 541 criminal & civil cases
SENIOR DISTRICT JUDGE	.33 per District Judge	.33 per District Judge	4 per District Judge	.45 per District Judge
MAGISTRATE JUDGE	.33 per District Judge	.5 per District Judge	.5 per District Judge	.7 per District Judge
D.C. DEPUTY CLERK	64 criminal/civil cases/8 per Judge	73 criminal/civil cases/7 per Judge	82 criminal/civil cases/8 per Judge	84 criminal/civil cases/9 per Judge
BANKRUPTCY JUDGE	1 per 1,424 bankruptcy filings	1 per 1,468 bankruptcy filings	1 per 2,172 bankruptcy filings	1 per 2,428 bankruptcy filings
B.C. DEPUTY CLERK	122 filings/12 per Bankruptcy Judge	142 filings/14 per Bankruptcy Judge	150 filings/14.5 per Bankruptcy Judge	172 filings/15 per Bankruptcy Judge
PROBATION OFFICER	1 per 30 persons under supervision	1 per 31 persons under supervision	1 per 31 persons under supervision	1 per 31 persons under supervision
PROBATION CLERICAL	.63 per probation officer	.63 per probation officer	.62 per probation officer	.60 per probation officer
PRE-TRIAL OFFICER	105 criminal cases/113 defendants	110 criminal cases/105 defendants	115 criminal cases/121 defendants	90 criminal cases/85 defendants
PRE-TRIAL CLERICAL	.60 per pre-trial officer	.88 per pre-trial officer	.57 per pre-trial officer	.54 per pre-trial officer
PUBLIC DEFENDER ATTORNEY	110 criminal cases/113 defendants	101 criminal cases/105 defendants	101 criminal cases/108 defendants	78 criminal cases/81 defendants
INVESTIGATOR	.25 per attorney	.25 per attorney	.25 per attorney	.22 per attorney
PARALEGAL	.10 per attorney	.10 per attorney	.10 per attorney	.10 per attorney
PUBLIC DEFENDER CLERICAL	.60 per attorney	.60 per attorney	.63 per attorney	.69 per attorney
CIRCUIT JUDGE	.33 per District Judge	.33 per District Judge	.30 per District Judge	.25 per District Judge
SENIOR CIRCUIT JUDGE	.33 per Circuit Judge	.50 per Circuit Judge	.30 per Circuit Judge	.66 per Circuit Judge

Table 2., we have translated caseload estimates at the 5, 10, 20, and 30 year points into reasonable levels of personnel resources (also calculated for 5, 10, 20, and 30 years). These projections are based on average caseload to personnel statistics—they are not in any way a duplication or replacement of the actual personnel formulas used to determine actual staffing levels.

The final step in this initial projection process is to translate future personnel projections into space requirements. The figures in Table 3., derived from the new U.S. Courts Design Guide, describe the approved allocations used to correlate the projected space requirements with the personnel projections. These numbers are used to translate personnel estimates into additional space requirements for the 5, 10, 20, and 30 year milestones.

Table 3.

Space Requirements Summary

<u>Personnel Type</u>	<u>Sq.Ft.</u>
District Judge	6,145
Senior District Judge	6,145
Magistrate Judge	4,695
District Court Deputy Clerk	125
Bankruptcy Judge	4,770
Bankruptcy Court Deputy Clerk	125
Probation Officer	150
Probation Support Staff	125
Pre-Trial Officer	150
Pre-Trial Support Staff	125
Public Defender Attorney	200
Investigator	150
Paralegal	150
Public Defender Support Staff	125
Circuit Judge	2,340
Senior Circuit Judge	2,340

March, 1991 U.S. Courts Design Guide

About the Projections

Any attempt to predict the future requires the extension of well established trends based on assumptions, using reliable statistical techniques. For your working purposes, we have attached two appendices to this report which utilize statistical and trend information. Appendix I, the Projections Appendix, contains future caseload, personnel, and space estimates for planning purposes only. We have made every effort to avoid overstatement in the projections by consulting with authorized statisticians and program officials. The second appendix, the Caseload and Demographics Appendix, is designed to provide you with factual information about your caseload and demographic trends. This information is being supplied to orient the planning team toward thinking about both past and future trends that may affect your District.

The models and ratios contained in this report are used to generate initial projections and are valuable only as a starting point for the long range planning process. These starting figures will be examined during the orientation workshop being scheduled for your District. The goal of the workshop is to incorporate the knowledge and experience of each District planning team into the

projections. The initial projections in this report will be worked and re-worked until a unique business plan is produced that contains the best of the planning team's ability to make reasonable approximations of future space.

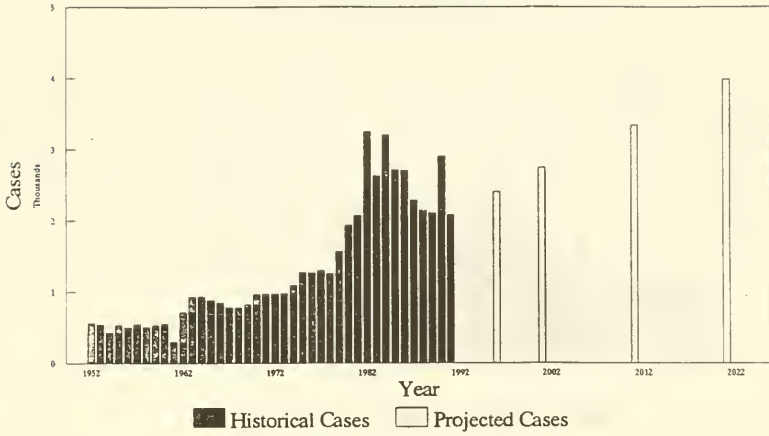
Appendix I: Projections

SOUTHERN DISTRICT OF INDIANA

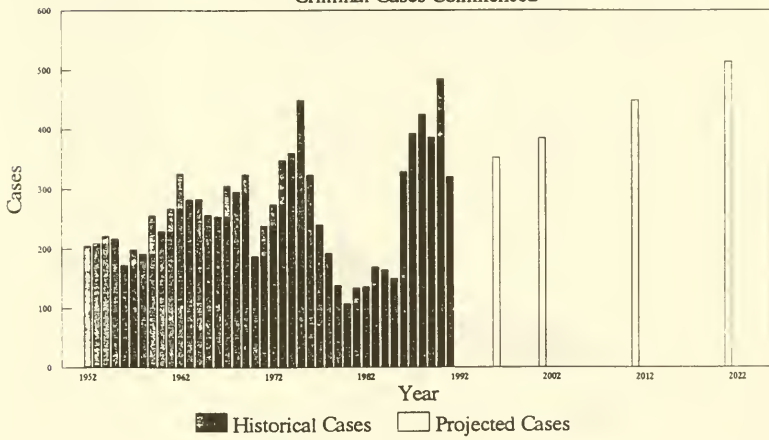
YEAR	CIVIL CASES COMMENCED	CRIMINAL CASES COMMENCED	PERSONS UNDER SUPERVISION	TOTAL BANKRUPTCY FILINGS
1952	564	205	282	133
1953	542	210	284	132
1954	433	222	257	184
1955	534	217	249	288
1956	506	173	270	305
1957	553	199	279	300
1958	509	192	256	537
1959	533	256	281	645
1960	558	230	319	804
1961	300	268	289	1565
1962	717	326	199	1911
1963	930	283	338	2638
1964	939	284	335	3192
1965	886	257	438	3634
1966	853	255	355	3904
1967	788	306	310	4440
1968	781	296	347	4952
1969	829	325	399	4787
1970	968	188	383	5100
1971	977	239	451	5390
1972	976	275	465	4908
1973	981	349	562	4518
1974	1089	361	637	5043
1975	1278	450	661	6586
1976	1266	324	589	6614
1977	1302	240	495	5605
1978	1253	193	542	5299
1979	1564	139	487	6113
1980	1933	108	530	7206
1981	2067	135	500	8010
1982	3250	137	472	7390
1983	2630	170	500	7502
1984	3201	165	469	6963
1985	2713	151	523	7366
1986	2700	330	554	9740
1987	2288	394	590	10748
1988	2143	426	583	11730
1989	2104	387	569	12537
1990	2907	485	521	14326
1991	2080	321	540	17361

Statistical year data (7/1-6/30) gathered from the Director's Annual Report

SOUTHERN DISTRICT OF INDIANA Civil Cases Commenced



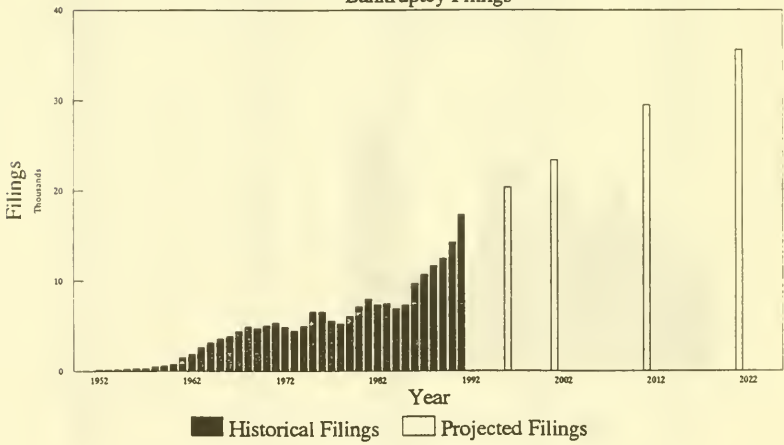
SOUTHERN DISTRICT OF INDIANA Criminal Cases Commenced



SOUTHERN DISTRICT OF INDIANA Persons Under Supervision



SOUTHERN DISTRICT OF INDIANA Bankruptcy Filings



SOUTHERN DISTRICT OF INDIANA

FILING PERCENTAGES FOR EACH DIVISION

(based on historical data)

DIVISION	CRIMINAL CASES	DEFNDTS	CIVIL CASES	BANKRCPY FILINGS	PERSONS UNDER SUPERVSN	ELIGBL INTRVW	NO TR
INDIANAPOLIS	78.55%	78.54%	79.85%	75.14%	74.52%	80.65%	78
TERRE HAUTE	2.61%	2.83%	7.52%	1.35%	6.11%	2.38%	2
EVANSVILLE	14.49%	13.68%	6.90%	12.02%	14.14%	13.69%	12
NEW ALBANY	4.35%	4.95%	5.73%	11.49%	5.24%	3.27%	2
	100%	100%	100%	100%	100%	100%	

Data gathered from the Statistical Analysis and Reports Division.

PERCENTAGE GROWTH IN CASELOAD

CIVIL CRIMINAL PERSONS
SUPERVSD BANKRUPTCY

HISTORICAL DATA

PAST 30 YEARS	309%	67%	111%	3133%
PAST 20 YEARS	166%	8%	56%	251%
PAST 10 YEARS	66%	66%	-0%	228%
PAST 5 YEARS	-21%	89%	8%	131%

PROJECTED DATA

NEXT 5 YEARS	15%	10%	15%	17%
NEXT 10 YEARS	32%	20%	30%	35%
NEXT 20 YEARS	61%	40%	60%	70%
NEXT 30 YEARS	92%	60%	90%	105%

AVERAGE NUMBER OF DEFENDANTS PER CRIMINAL CASE

= 1.27

HOUSING STATEMENT: SOUTHERN DISTRICT OF INDIANA

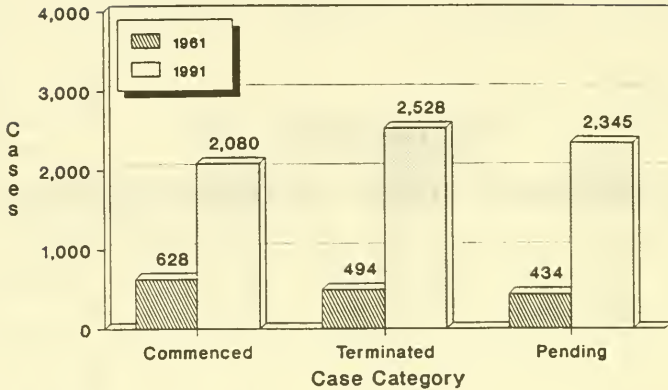
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		CURRENT		5 YEAR PROJECTIONS (ADDITIONAL FIGURES)		10 YEAR PROJECTIONS (INCLUDES YEAR 5)		20 YEAR PROJECTIONS (INCLUDES YRS. 5-10)		30 YEAR PROJECTIONS (INCLUDES YRS. 5-10)	
PERSONNEL TYPE AND	SQUARE	PERSONNEL		(ONLY)		(FIGURES)		(FIGURES)		(FIGURES)	
REQUIRED SPACE	FEET	FIGURES	PERSONNEL	SPACE	PERSONNEL	SPACE	PERSONNEL	SPACE	PERSONNEL	SPACE	
<hr/>											
U.S. DISTRICT COURT											
Judgeships	(6,145)	5	1	6,145	2	12,290	3	18,435	5	30,725	
Senior Judges	(6,145)	2	0	0	1	6,145	1	6,145	1	12,290	
Magistrate Judge	(4,695)	4	1	4,695	1	4,695	2	9,390	3	14,085	
Deputy Clerks	(125)	43	9	1,125	17	2,125	31	3,873	47	5,873	
Court Reporter	(500)	5	1	300	2	600	3	900	5	1,500	
DISTRICT COURT SUBTOTAL				12,265	25,855		38,745		64,473		
<hr/>											
U.S. BANKRUPTCY COURT											
Judgeships	(4,770)	4	1	4,770	2	9,340	4	19,080	5	23,810	
Deputy Clerks	(125)	107	15	1,875	30	3,750	60	7,500	89	11,125	
BANKRUPTCY COURT SUBTOTAL				6,645	13,290		26,580		34,935		
<hr/>											
U.S. PROBATION OFFICE											
Officer	(150)	20	5	750	10	1,500	20	3,000	29	4,350	
Support Staff	(125)	18	3	375	6	750	12	1,500	17	2,125	
PROBATION OFFICE SUBTOTAL				1,125	2,250		4,500		6,475		
<hr/>											
U.S. PRE-TRIAL SERVICES OFFICE											
Officer	(150)	2	1	150	1	150	5	450	4	600	
Support Staff	(125)	2	1	125	1	125	2	250	2	250	
PRE-TRIAL OFFICE SUBTOTAL				275	275		700		850		
<hr/>											
U.S. FEDERAL PUBLIC DEFENDERS OFFICE											
Attorney	(300)	0	1	200	2	400	5	600	5	1,000	
Investigators	(150)	0	0	0	1	150	1	150	1	150	
Paralegals	(150)	0	0	0	0	0	0	0	1	150	
Support Staff	(125)	0	1	125	1	125	1	250	3	375	
PUBLIC DEFENDER SUBTOTAL				325	675		1,000		1,625		
<hr/>											
U.S. CIRCUIT COURT											
Judge/Sr. Judge	(2,340)	0	0	0	0	0	1	2,340	1	2,340	
<hr/>											
TOTAL COURT SQUARE FOOTAGE INCREASE				20,635	42,345		73,665		110,710		
<hr/>											
RELATED AGENCIES—rough estimates that include all agency space (i.e., conference rooms, special use, storage, etc.). Official planning for these agencies must be obtained from the central office of each agency.											
U.S. Attorney	(325)	0	0	0	0	0	0	0	0	0	
U.S. Marshal	(425)	0	0	0	0	0	0	0	0	0	
CSO	(50)	0	0	0	0	0	0	0	0	0	
U.S. Trustee	(455)	0	0	0	0	0	0	0	0	0	
TOTAL RELATED AGENCY SPACE				0	0		0		0		
<hr/>											
ADDITIONAL SPACE ESTIMATED TO ACCOMMODATE CIRCULATION, STORAGE, LIBRARY, ETC. (TOTAL SQUARE FOOTAGE INCREASED BY 45%)											
				9,266	19,055		33,239		49,810		
<hr/>											
TOTAL ADDITIONAL SPACE NEEDED				29,921	61,400		107,104		160,620		
				YEAR 5	YEAR 10		YEAR 20		YEAR 30		

Appendix II: Caseload and Demographics

Total Civil Cases

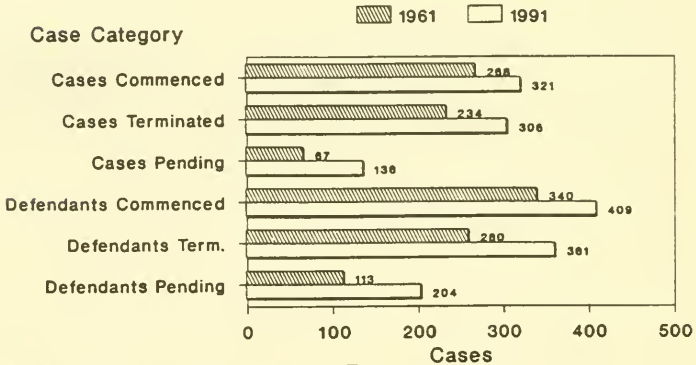
Commenced, Terminated, and Pending Comparison of 1961 and 1991



Cases pending on the 30th of June.

Criminal Cases and Defendants

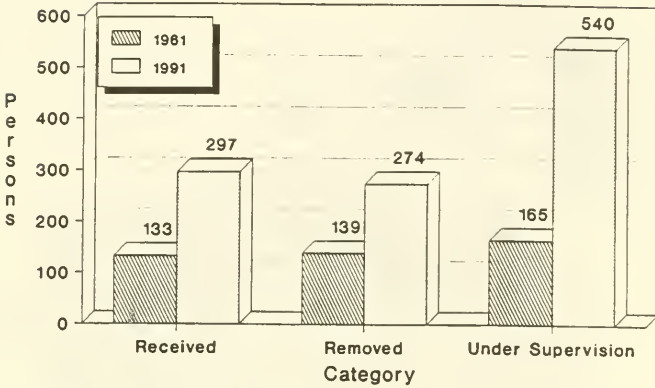
Commenced, Terminated, and Pending Comparison of 1961 and 1991



Cases pending on the 30th of June.

Persons Under Supervision

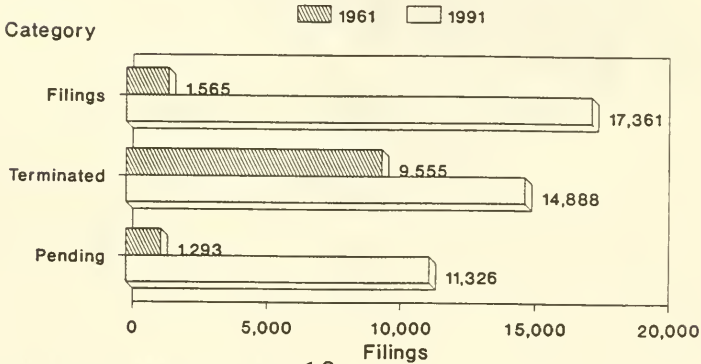
Received, Removed, and Under Supervision Comparison of 1961 and 1991



Persons under supervision on June 30th.

Bankruptcy Filings

Commenced, Terminated, and Pending Comparison of 1961 and 1991



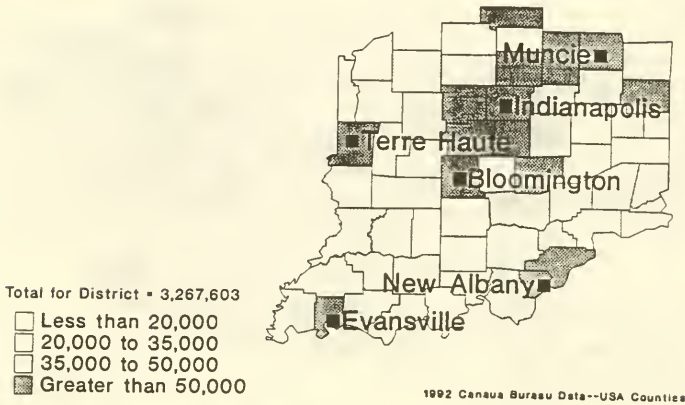
Filings pending on the 30th of June.

Southern District of Indiana Counties

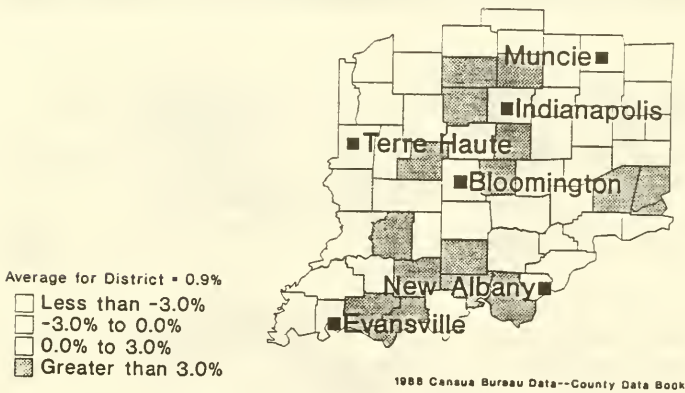


Southern District of Indiana

Facility Locations and County Population

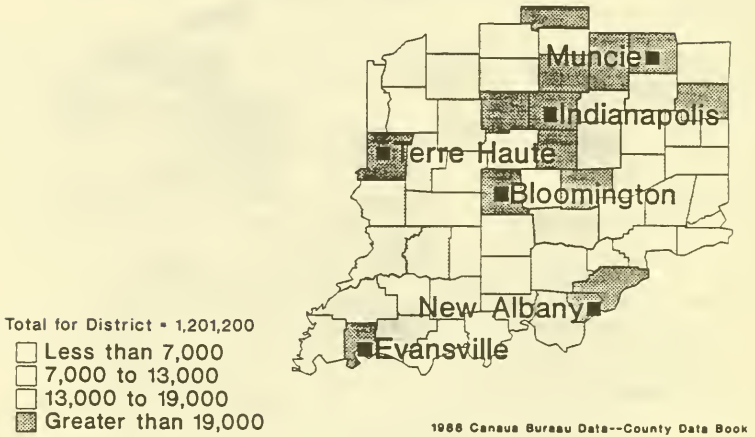


Change in Population Over Last 5 Years

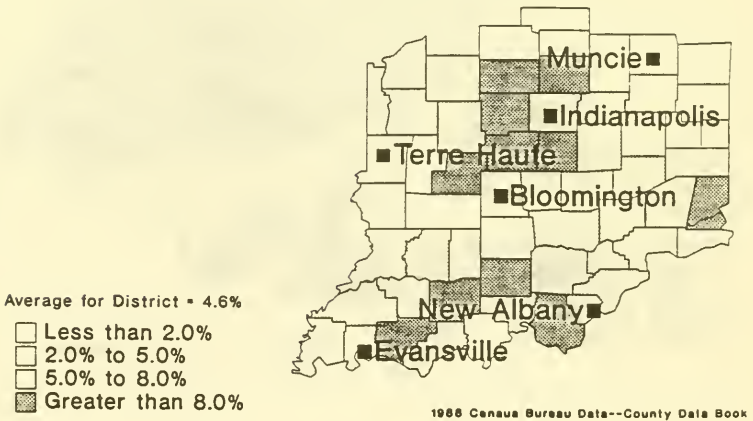


Southern District of Indiana

Number of Households

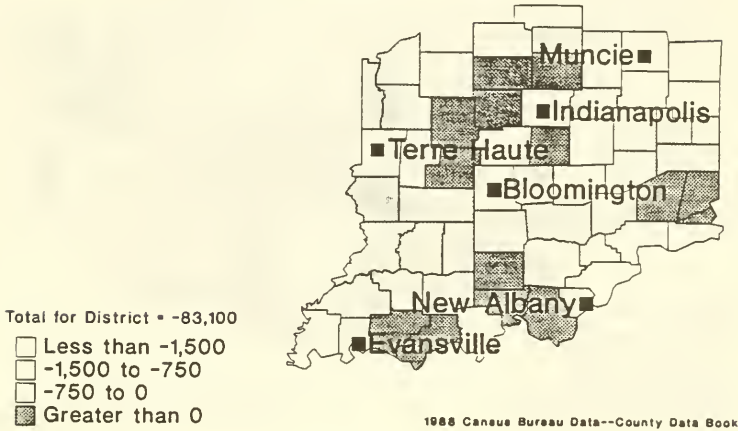


Change in Number of Households Over Last 5 Years

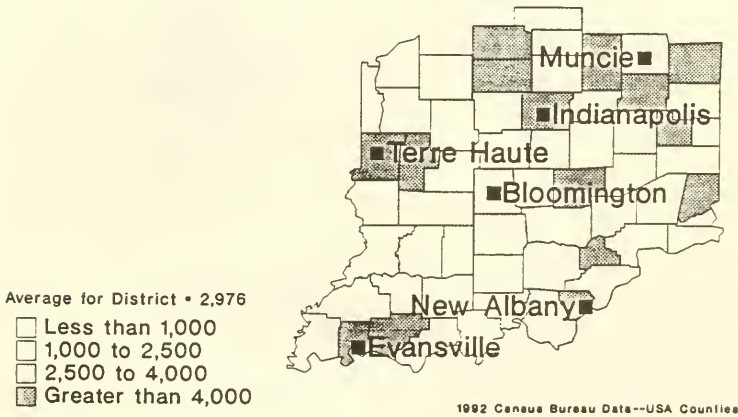


Southern District of Indiana

Change in Migration Over Last 5 Years

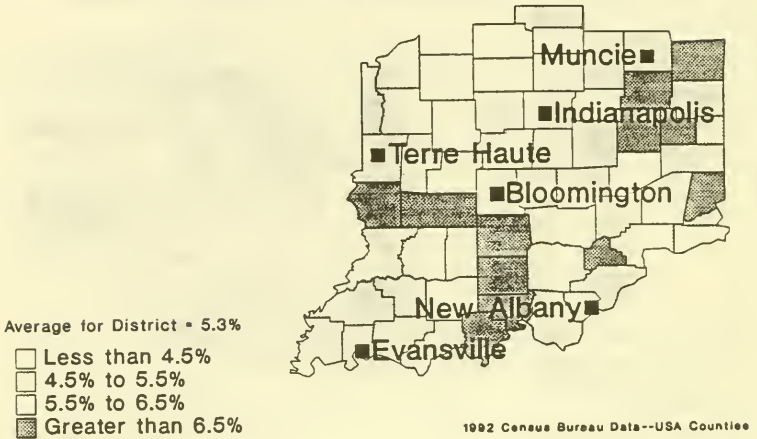


Number of Serious Crimes per 100,000 People

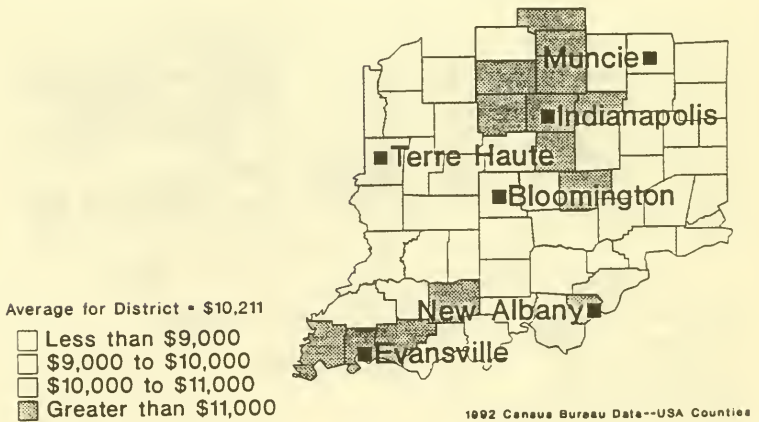


Southern District of Indiana

Unemployment Rate

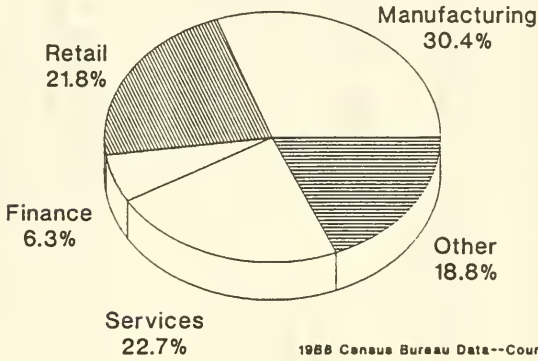


Income per Capita



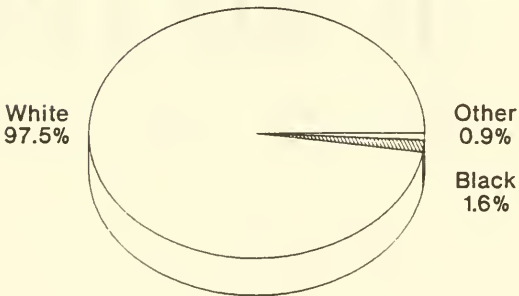
Southern District of Indiana Employment of Population by Industry

Other includes govt. employees, the self-employed,
agricultural workers and domestic workers



Racial Composition of Population

Other includes American Indian, Asian and Hispanic



Southern District of Indiana

Caseload and Population Statistics

Average Number of People Living in the District per
Caseload Type (1991 statistics):

<u>Caseload Type</u>	<u>Average Number of People</u>
Civil Case Commenced	1,571
Criminal Case Commenced	10,179
Defendant Commenced	8,009
Person Under Supervision	6,051
Bankruptcy Filing	188

Other Figures:

Number of Households per Bankruptcy Filing = 69
Average Number of People per Authorized District Court
Judge = 653,521
District Population (Census Bureau Statistics) = 3,267,603
Households for District (Census Bureau Statistics) =
1,201,200

PERSONNEL TYPE AND REQUIRED SPACE (Sq Ft)	PERSONNEL		ONLY		FIGURES		FIGURES		FIGURES	
	FIGURES	PERSONNEL	PERSONNEL	SPACE	PERSONNEL	SPACE	PERSONNEL	SPACE	PERSONNEL	SPACE
U.S. DISTRICT COURT*										
Judgebip (6,145)	5	0	0	1	6,145	2	12,290	3	18,435	
Senior Judge (6,145)	1	2	12,290	2	12,290	2	12,290	2	12,290	
Magistrate Judge (4,695)	4	0	0	0	0	1	4,695	2	9,390	
Deputy Clerk (125)	42	5	625	10	1,250	20	2,500	30	3,750	
Court Reporter (300)	5	0	0	1	300	2	600	3	900	
DISTRICT COURT SUBTOTAL			12,915		19,985		32,375		44,765	
U.S. BANKRUPTCY COURT**										
Judgebip (4,770)	4	1	4,770	2	9,540	4	19,080	5	23,850	
Deputy Clerk (125)	107	30	3,750	55	6,875	105	13,125	155	19,375	
BANKRUPTCY COURT SUBTOTAL			8,520		16,415		32,205		43,225	
PROBATION OFFICE***										
Officer (150)	20	6	900	9	1,350	15	2,250	20	3,000	
Support Staff (125)	16	4	500	7	875	12	1,500	16	2,000	
PROBATION SUBTOTAL			1,400		2,225		3,750		5,000	
PRE-TRIAL SERVICES OFFICE										
PRE-TRIAL SUBTOTAL			0		0		0		0	
FEDERAL PUBLIC DEFENDER OFFICE****										
Attorney (200)	0	2	400	3	600	6	1,200	12	2,400	
Investigator (150)	0	1	150	1	150	2	300	3	450	
Paralegal (150)	0	1	150	1	150	1	150	2	300	
Support Staff (125)	0	1	125	2	250	4	500	7	875	
PUBLIC DEFENDER SUBTOTAL			825		1,150		2,150		4,025	
U.S. CIRCUIT COURT*****										
Judge/Sr. Judge (2,480)	0	0	0	1	2,480	1	2,480	2	4,960	
Circuit Library (5,000)	1	0	0	0	0	0	0	0	0	
Library Staff (150)	3	0	0	0	0	1	150	2	300	
Library Growth Rate (115)	0	5	575	10	1,150	20	2,300	30	3,450	
CIRCUIT COURT SUBTOTAL			575		3,630		4,930		8,710	
TOTAL COURT NET SPACE			24,235		43,405		75,410		105,725	
COURT SUPPORT REQUIREMENTS: 25% OF NET			6,059		10,851		18,853		26,431	
CIRCULATION: 20% OF NET SPACE			4,847		8,681		15,082		21,145	
TOTAL COURT SPACE			35,141		62,937		109,345		153,301	
RELATED AGENCIES***** Rough estimates that include all agency space (i.e., office space, conference rooms, etc.).										
Official planning for these agencies must be obtained from the central office of each agency.										
US Attorney (325)	70	8	2,600	17	5,525	38	12,350	64	20,800	
US Marshal (425)	25	4	1,700	8	3,400	12	5,100	16	6,800	
CSO (50)	20	0	0	4	200	8	400	13	650	
US Trustee (455)	23	7	3,185	14	6,370	19	8,545	29	13,195	
TOTAL RELATED AGENCY SPACE			7,485		15,495		26,495		41,445	
TOTAL ADDITIONAL SPACE NEEDED			42,626		78,432		135,840		194,746	
			Year 5		Year 10		Year 20		Year 30	

Australian Institute of Judicial Administration
Annual Conference, 1 - 2 October 1993

**"JUDICIAL INDEPENDENCE AND THE
PLANNING OF COURT SPACE AND FACILITIES"**

by

Mr Justice R D Nicholson *

* A judge of the Supreme Court of Western Australia who chairs the Courts Planning and Supreme Court Accommodation Committees of the Supreme Court of Western Australia. The first draft of this paper was prepared while the writer was a Visiting Foreign Judicial Fellow at the United States Federal Judicial Center from March-May 1992 under the auspices of an Australian Fulbright Scholarship. The writer wishes to record his appreciation to Gerald Thacker, then Chief, Space and Facilities Division, Administrative Office of the United States Courts for his introduction to the work of that Division and for enabling the author's participation in the long range planning study in the Federal District of South Carolina.

The planning of court space and facilities is, on its face, a prosaic matter. Apart from the concerns about immediate inadequacies in the supply or fitting of court-rooms or chambers, the level of judicial interest in the topic could not be counted as very high. Two factors are operating to change that perception. The first is a heightened interest in the assumption by the judiciary of responsibility for the affairs of the judicial branch. The second is the increase in the business of the courts and an associated increase in the membership of the judiciary and the staff of courts.

PLANNING AS GOVERNANCE

For Australia, the first issue has been comprehensively considered in the recent report of the Australian Institute of Judicial Administration ("the AIJA") on "Governing Australia's Courts".¹ As the authors of that report point out, "the usual model of judicial administration in Canada and Australia is for court administration to be part of the portfolio of the Attorney-General or a Department of Justice"² but "administrative arrangements must be made according to appropriate philosophical principles".³ Where the relevant philosophical principle is that of judicial independence, it is necessary to consider the operation of that principle in conjunction with matters arising in connection with the governance.

More recently, however, attention has turned to the issue whether the principle of judicial independence requires judicial control of space and facilities planning. Justice McGarvie has written:

"It is very important that the judges of a court should unambiguously possess and exercise the right to control of the court's premises, facilities, staff and budget. Executive control of these areas carries with it the ability to exert or threaten almost as much pressure on judges as the power arbitrarily to remove them or reduce their salaries. Realistically the judges cannot be regarded as in control of the administration and operation of their court unless they control these areas."⁴

¹ Thomas W Church and Peter A Sallmann, 'Governing Australia's Courts', *Australian Institute of Judicial Administration* (1991)

² *Ibid* 2

³ *Ibid* 7

⁴ Mr Justice R E McGarvie, 'The Foundations of Judicial Independence in a Modern Democracy' (1991) 1(1) *Journal of Judicial Administration* 3, 30

He agreed with an earlier expression of news to the same effect by Chief Justice King when he said:⁵

"....There is a tendency to judge the significance and worth of public functions by reference to their outward manifestations. Public confidence in the judiciary could be significantly affected by the nature and the suitability of court buildings and court facilities and by whether those buildings and facilities are seen to be controlled by the executive government or by the judges. If the courts are to have exclusive authority to declare and apply the law and to administer justice, as the principles of the rule of law and judicial independence demand, they cannot confine their responsibilities to the mere hearing of cases. They must concern themselves with all those matters which are capable of affecting the course and the outcome of legal proceedings, however mundane or remote from the traditional role of judges those matters might appear to be. For these reasons I hold strongly to the view that the only effective way in which judicial independence can be adequately ensured is by vesting in the judiciary complete control over the court building and its facilities. Such complete control is, I suspect, the exception rather than the rule in most countries. It is an aspect of judicial independence which demands a good deal more attention than it has hitherto received. ..."

The time is past where there can be any question that judicial administration and judicial independence are intrinsically interrelated. It is now widely accepted that the "contemporary understanding of judicial independence includes a panoply of administrative arrangements."⁶ The same point was made in Australia in the Fitzgerald Report which stated:

"The independence of the judiciary is of paramount importance and not to be compromised. One of the threats to judicial independence is an over-dependence upon administrative and financial resources from a government department or being subject to administrative regulation in matters associated with the performance of the judicial role. Independence of the judiciary bespeaks as much autonomy as is possible in the internal management of the administration of the courts."⁷

In the United States it has been said it is:

"axiomatic that, as an independent department of government, the judiciary must have adequate and sufficient resources to ensure the proper operation of the courts. It would be illogical to interpret the Constitution as creating a judicial department with awesome powers over the life, liberty and property of every citizen, while at the same time denying to the judges authority to

⁵ Mr Justice L J King, 'Minimum Standards of Judicial Independence' (1984) 58 *Australian Law Journal* 340, 344

⁶ Russell Wheeler, *Judicial Administration: Its Relation to Judicial Independence*, National Center for State Courts, 1988, p 7.

⁷ *Report of a Commission of Enquiry* (Government Printer, Brisbane, 1989), p 134

determine the basic needs of their courts as to equipment, facilities and supporting personnel....⁸."

United States developments

Recent experience in the United States shows a movement toward judicial control of the planning of court space and facilities. In 1990 the Federal Court's Study Committee recommended⁹ that legislation should be introduced to make the federal judicial branch, in consultation with Congress, independent of the executive branch in acquiring and maintaining its space and facilities. The Judicial Conference of the United States had approved the possibility of legislation to such effect in 1989 and it did so with support from the Administrative Office of the United States Courts and the National Academy of Public Administration. The Committee said that its recommendation would change the current relationship between the judiciary and executive branches in courtroom and office space matters whereby at present the General Services Administration ("GSA") controls planning for the judiciary's needs and the Office of Management and Budget reviews those plans. The Committee considered the judiciary should control the planning for judicial branch space needs. The Committee supported this view by saying that it would give court administrators greater discretion and control of this support function. It also said any additional administrative burdens that the proposed statute would create for the judiciary would be more than offset by increased efficiencies it would provide for the court.

In its report the National Academy of Public Administration had made recommendations on "ways to reform the system so that new judges could become fully productive in their permanent courtrooms and chambers promptly after their confirmation or appointment".¹⁰ The recommendations fell into three areas. Firstly, that the judicial branch should receive direct appropriations from the Congress for all construction and alteration requirements and control these funds on a project by

⁸ *O'Coin's Inv v Treasurer of the County of Worcester* quoted in Stein "The Judiciary is failing to Protect the Courts" (1979) 18 *The Judges' Journal* 16, 18.

⁹ Report of the Federal Courts Study Committee, 2 April 1990, 161-2

¹⁰ National Academy of Public Administration, *Improving Facilities Management of the US Courts*, August 1987, ii-iii, 23-34

project basis, although still relying on the GSA for most architect-engineering and construction work. In the view of the Academy:

"As the third branch of government, the Judiciary should have an independent funding base for all of its construction requirements. It does not warrant being lumped into the huge public building pot subject to the most recent calamity affecting the executive branch of government..."

A perceived positive outcome of this recommendation was that the courts would be required to take the lead in planning and budgeting their requirements and in setting priorities for their work. The second area was that space planning, architect-engineering work and all steps up to award of construction contracts should proceed promptly after the Judicial Conference has approved the numbers of judges and magistrates and their locations. The Academy saw as a key to this the attainment of a separate line item in the appropriations for the Judicial Conference for improved early planning and architect-engineering work. The third area was that the courts immediately develop a comprehensive space management capability by establishing a planning process and developing priority categories through the work of the Administrative Office. Illustratively of the responsibility which must accompany applications of the principle of judicial independence, the Academy stated that judges must be held accountable to standards developed for courtrooms and chambers because "the Courts must achieve internal discipline if they want the other participants in this process to maintain high performance standards." In similar vein it recommended that the Courts invest more heavily in management training for those judges who are in line, by virtue of seniority, to be chief judges because "the size and predictable growth of the courts demands chief judges who not only are outstanding judges but who have some skill in and appreciation for management."

The problems which the Academy found in the administration of the space and planning needs of the federal judicial branch by the executive department of General Services Administration¹¹ were not only that the judiciary competed with

¹¹ Confirmation of the difficulties experienced with GSA is found in United States General Accounting Office, Report to Congress, General Services Administration, November 1989

executive departments for allotment from appropriations for space and facilities expenditure but also that, despite a predictable growth in numbers of judges, a new judge could expect to be housed in temporary quarters for at least two years and that there was a substantial quantity of unmet space needs for the courts.

A bill to give general legislative effect to the recommendations of these studies, the *Judicial Space and Facilities Management Improvement Act of 1990*, was introduced to the United States Senate in the last Congress. It proposed to vest in the Director of the Administrative Office of the United States Courts appropriate authority with respect to acquisition, construction, leasing, alteration and disposition of court accommodation and in relation to obtaining architectural, engineering or construction services and maintenance. It would preserve to the relevant committees of the houses of the legislature the power to approve acquisitions or construction involving a total expenditure in excess of \$1.5m or alterations to leased space in excess of \$750,000. It proposed the creation of a Judicial Space and Facilities Management Fund in relation to which the Director would have permanent authority to expend monies in such amounts as specified by Congress in annual appropriations acts, the purpose being to allow the Director to control its appropriations and set priorities with respect to the expenditure of appropriations. The Bill lapsed at the end of the Congressional Session and has not yet been reintroduced.

Some aspects of the recommendations giving rise to this proposed legislative provision were shaped by the particular requirements of the courts to which they related. Nevertheless, they highlight some issues applicable to Australia and illustrate latent difficulties not yet experienced in Australia. Both from Australian experience and from such comparative overseas experience it is appropriate to ask whether Australia's courts would be better served by increased judicial governance of space and facilities planning. That is a matter to be considered as much in the light of practical considerations as in the light of pure application of the principle of judicial independence.

Australian models: new developments

The report of the AIJA on "Governing Australia's Courts" examined three models of judicial administration present in Australia.¹² The first is the "traditional" model previously referred to whereby a generalist executive department provides court services. The second is the "separate executive department" model presently seen in South Australia. The third is the "autonomous" model seen in the Federal and Family Courts and the Commonwealth Administrative Appeals Tribunal.¹³

In relation to the planning of court space and facilities, the traditional model has largely left to the executive the planning and prioritisation of the needs of the judicial branch of government. Prioritisation by the executive may well produce results largely acceptable by the judiciary but, in the main, it occurs under this system without the judiciary having the opportunity to make an input into the choices beyond the needs of a particular court. Worst of all, the planning is done horizontally (with a line into each court) thereby denying the cross-fertilisation of ideas among the judicial branch as a whole and fragmentizing the planning process. The effect of this model is to open the way to executive dominance of choices when there is a real conflict between the views of the judiciary and of the executive. The essence of the model is that there is no cohesion or expertise in the judiciary relevant to the planning process and the judiciary are to be passive recipients of space and facilities which others deem appropriate for them. To my mind the model denies the fundamental of any planning process: the views and experience of the users of the facility being planned, not just on the size of chambers and the colour of the carpet, but on the basic issues which constitute the planning process.

In Western Australia informal steps have been taken in an endeavour to overcome the inefficiencies of the traditional model. In 1988, with the approval of the then Attorney General, the Chief Justice established a Supreme Court Planning Committee with representation from departments having an interest in the planning of

¹² Church and Sallmann, *supra* n1

¹³ *High Court of Australia Act 1979*, Pt III; *Federal Court of Australia Act 1976*, Pt IIA; *Family Law Act 1975*, Pt IVA; see also *Administrative Appeals Tribunal Act 1975*, Pt IIIA.

the future of the Supreme Court site in addition to representation from the judiciary and administration of the Supreme Court. By 1992 this committee had been retitled the Courts Planning Committee with a charter to consider and report on the needs of all the courts of State jurisdiction. Its membership included two judges of the Supreme Court, the Chief Judge of the District Court, the Chief Stipendiary Magistrate, the Solicitor General, a representative of the Law Society and the Bar Association, the Under Secretary for Law, the Head of the Court Services Branch and the Manager of Building and Facilities of the Crown Law Department, representatives of the Building Management Authority ("BMA") and a representative of the Department of Infrastructure and Government Administration ("DIGA"). At the end of 1992 this committee established a Working Party to investigate the options for the future development of all courts (other than the Family Court of Western Australia and the Children's Court which have each recently been rehoused in new accommodation) within Western Australia.

The Working Party gave the opportunity for even wider participation by the Executive Officers of the Courts and other persons in the planning process. The recommendations of the Party were reported to the Courts Planning Committee which adopted them, subject, in the case of the Supreme Court, to the Committee preferring an option previously rejected by the Working Party in the light of unanimous opposition by the Judges of the Supreme Court to the recommended option. Planning monies were then made available for the development of each of these options and their consideration by the Accommodation Committees established within each Court for the development of the particular option proposed for that Court. Since then the Courts Planning Committee has also contributed its views to the prioritisation of the capital works program of the law budget which involves the Committee in giving consideration to the development of both central business district and non-central business district courts. The Committee's views take the form of recommendations to the Chief Justice. The Committee has thus provided the first occasion for cross-

jurisdictional consideration of planning issues facing the judicial branch in Western Australia.

Being an arrangement of recent origin and lacking formal institutionalisation, it must be said that when the executive exerts pressure, the committee structure provides no sure mechanism for guaranteeing that the judiciary have the occasion for input to important decisions. It can simply be by-passed. Such a situation recently occurred following a change of government in the State. The new Attorney urgently requested a report on the planning issues facing all courts and the necessary recommendations concerning their funding. In response to the request, certain recommendations were made by the BMA, DIGA and Treasury and endorsed by the Court Services Branch which cut entirely across the planning process and pre-empted the consultations and work of the previous two years. Although the report itself recommended consultation with the judiciary, the absence of any institutionalised role for the judiciary enabled views fundamental to its future to reach an attorney without any judicial input. The point which this occurrence illustrates is that, in the absence of the appropriate structures, the occasion for judicial input into the planning process can be denied even where that process has been shown to be deliberative and informed by all relevant authorities.

Since that occurrence the Chief Justice, the Chief Judge and the Chief Stipendiary Magistrate have convened as heads of jurisdiction and conferred with the Attorney General in that capacity. The Report of the Independent Commission to Review Public Sector Finances in Western Australia (the McCarry Commission) has recommended "that the vote for the law courts be identified as a separate part in the Consolidated Fund estimates and be determined after discussion between the Treasurer and the Chief Justice each year".¹⁴ These are pointers to a possible change in the current process.

¹⁴ *Report of the Independent Commission to Review Public Sector Finances: Agenda for Reform* (1993), p 55-6.

The development of the separate executive department model commenced in 1981 in South Australia with the establishment of the Court Services Department as a separate department of Government. The enactment of the *Courts Administration Act 1993 (SA)* has taken this much further. The objects of that act are¹⁵:

- "(a) to establish the *State Courts Administration Council* as an administrative authority independent of control by executive government;
- (b) to confer on the Council power to provide courts with the administrative facilities and services necessary for the proper administration of justice."

The Council is constituted by the Chief Justice of the Supreme Court, the Chief Judge of the District Court and the Chief Magistrate of the Magistrates Court, thus bringing cohesive direction to the governance of the judicial branch.¹⁶ The Council is responsible for providing, or arranging for the provision of, the administrative facilities and services for participating courts that are necessary to enable those courts properly to carry out their judicial functions.¹⁷ Each court still retains responsibility for its own internal administration.¹⁸ Relevantly to planning, the Council may establish administrative policies and guidelines to be observed by the courts in the exercise of their administrative responsibilities.¹⁹ The Council has all the powers of a natural person and may enter into any form of contract or arrangement; acquire, hold, deal with and dispose of real and personal property; and provide services on terms and conditions determined by the Council.²⁰ In addition, it has the responsibility for the care, control and management of all courthouses and other real and personal property set apart for the use of the courts.²¹ The Council has the State Courts Administrator as its Chief Executive Officer, responsible to the Council for the management of the

¹⁵ *Courts Administration Act 1993*, s3

¹⁶ *Ibid.*, s7

¹⁷ *Ibid.*, s10(1)

¹⁸ *Ibid.*, s10(2)

¹⁹ *Ibid.*, s10(3)

²⁰ *Ibid.*, s11(1)

²¹ *Ibid.*, s15(1)

property which is under the Council's care, control and management.²² The Council may not expend money unless provision for the expenditure is made in a budget approved by the Attorney-General.²³ A member of the Council or the Administrator may be required to attend before a parliamentary committee to answer questions about the exercise of administrative powers or discretions.²⁴ Judicial independence is protected by a provision that neither a member of the judiciary nor the Administrator can be required to answer questions about the exercise of judicial powers or discretions²⁵ and a further provision that no power or discretion vested in the Governor or the Minister under the Act be exercised so as to impugn the independence of the judiciary in relation to the exercise of judicial powers or discretions.²⁶

This enactment thus arms the judicial branch with the structure and powers necessary for it to perform the function of independently planning space and facilities. The Chief Justice of South Australia, Mr Justice King, described the benefits of the new scheme as follows²⁷:

"[it] would have the capacity for providing an efficient and unified court administration service. It would remove the ambiguity which presently exists in the relations of judiciary and executive and would be an appropriate vehicle for the administration of an independent court system. It would be entirely consonant with the Westminster system and with ministerial responsibility thereunder. The judiciary through its appropriate organs would have the responsibility, which properly belongs to it, for the administration of the courts in which its members sit. But the actual administration would be performed not by judges, whose training and experience has not equipped them for it, but by trained administrators... the establishment of a judiciary based court administration service free of the ambiguities and confusions of the present system and with clear lines of responsibility and accountability, would clear the way for the development of the standards of efficiency in court administration necessary to meet the contemporary need."

In the case of the autonomous models introduced by the Commonwealth Government, the vesting of autonomy is effected in different ways. In the case of the

²² *Ibid.*, s17

²³ *Ibid.*, s25(4)

²⁴ *Ibid.*, s29

²⁵ *Ibid.*, s29(2)

²⁶ *Ibid.*, s31

²⁷ 'Independent court administration' (1993) 67 *Australian Law Journal* 245, 247-8

High Court it is the Court itself which has authority to administer its affairs²⁸ with power to control and manage any land or building occupied by the Court or is in its declared precincts.²⁹ In the case of the Federal Court the management responsibility is vested in the Chief Judge.³⁰ In the Administrative Appeals Tribunal such authority is vested in the President.³¹

Judicial governance

Apart from these recent statutory innovations, the law does not vest the judiciary with power to plan and develop the premises which the courts occupy. This matter has been examined by Mr Justice McPherson who considered "the extent in law of court control over buildings occupied for court purposes is not easy to determine."³² He found the legal status of court buildings to be a matter needing to be considered on an individual basis, the metropolitan or principal court house in each State probably having a peculiar history and perhaps legal status of its own.³³ He concluded³⁴:

"Whatever legal rights may be conferred by ownership of public buildings, executive power to regulate and control court houses owned by the Crown is subject to limits implicit in the purpose for which those buildings are provided and used by the courts and the judges who perform their functions in them."

Whatever the legal rights of courts in this respect, the planning of their space and facilities is an issue to be seen in the wider context of executive/judicial relations and of principles fundamental to the judicial branch, including the principle of judicial independence. Planning of space and facilities matters is an act of governance and the question arises in relation to it, as it does in relation to all acts of governance relevant to the judiciary, to what extent the judiciary should control or contribute to that issue or whether it should be isolated from it. The submission of this paper is that the provision of space and facilities are so intrinsically a part of the proper operation of the

²⁸ *High Court of Australia Act 1979*, s17(1).

²⁹ *Ibid.*, s 17(2)9d).

³⁰ *Federal Court of Australia Act 1976*, s18A(1).

³¹ *Administrative Appeals Tribunal Act 1976* s24A(1).

³² Mr Justice McPherson, 'Structure and Government of Australian Courts' (1992) 1(3) *Journal of Judicial Administration* 166, 178.

³³ *Ibid.*, 180-1

³⁴ *Ibid.*, 183

judicial branch, so essential to the maintenance of public confidence in the exercise of the judicial power of government, that judicial participation either by direction or major input is essential. Judicial independence mandates that the judiciary assume a responsibility for the provision of conditions which make the exercise of the judicial power timely and relevant to the needs of the public. Planning of court space and facilities is therefore no longer able to be left to others and is now an issue which must be of central importance to any court wishing to ensure it functions in the public interest.

LONG RANGE PLANNING

Prime among areas in which judicial policy making is vital is the question of *long range planning*. It is patent that any attempt to predict the future requirements of the courts is hazardous. The task necessarily requires statistical projection based upon present information on the work of the courts. Any projection is unpredictable because it is subject to the impact of legislative innovation or change in public conduct. Enactment of a right to sue at the expense of the state in respect of a consumer wrong would produce unanticipated utilisation of the courts just as de-criminalisation of drug-taking would reduce it. There may arise an escalation in drug-taking, bank robberies or other crime or the occurrence of severe economic depression producing a dramatic increase in bankruptcies. No planner can be expected to predict with entire accuracy such unpredictables. Allowance for them can be made, however, on a proper statistical basis informed by the judgment of those closest to the work of the courts over a period of many years. As it was put recently, the use of such techniques must be undertaken with sound judgment.³⁵

Various methodologies are currently used in caseload forecasting.³⁶ In 1973 the United States Federal Judicial Center initiated a caseload forecasting study in

³⁵ First International Conference on Courthouse Design, Washington DC, 7-9 October, 1992, comments by panellists (to be included in a conference report to be published by the American Institute of Architects).

³⁶ The information referred to is sourced from A. Fletcher Mangum, "A Survey of Caseload Forecasting Methodologies," unpublished manuscript, 1992 (Mr. Mangum prepared the manuscript as a staff member of the Planning and Technology Division of the Federal Judicial Center)

conjunction with the Battelle-Pacific Northwest Laboratories which projected caseload forecasts in 42 case categories for each district, circuit and the nation for the years 1979, 1984 and 1995.³⁷ This employed three forecasting methodologies: trend analysis, auto-regressive time series analysis and single equation structural regression analysis, of which the last was determined to have performed the best in terms of *ex-post* forecasting accuracy.³⁸ The problem of unpredictables was dealt with by assembling a panel of experts and asking them to identify possible "surprise" events and assess the probability that these events would occur and then incorporating the probabilistic assessments into the forecasts. In 1991 the United States Government Accounting Office released a report³⁹ providing a model for the short range forecasting of workloads relating to investigation, prosecution, adjudication and correction based on the premise that the incoming workload at each level is simply the output of the previous level.

Whatever the uncertainties of long range planning, it is essential that it be considered for any court wishing to properly fulfil its function in the administration of justice. It is not good enough for the judicial branch that pain has to be experienced from inadequate facilities before the problem is diagnosed and a cure sought.⁴⁰ Nor is it sufficient for the judicial branch to rest upon the attainment of a new courthouse or the maintenance of an existing facility. Long range planning is essential to keep properly alive, within the processes of government, the on-going requirements of the judicial branch. Too frequently the judicial branch seeks funds for a major courthouse development when it may have been possible to budget towards that goal over a long period of time and perhaps to build progressively, resulting in the required facility being available, in the required period. Proper performance of the judicial function

³⁷ J A Mahaffey, "Reduction of Data Base and Forecasts of Case Filings in the District Courts", a research report by Battelle Pacific Northwest Laboratories for the Federal Judicial Center, June, 1976

³⁸ Jerry Goldman *et al* , 'Caseload Forecasting Models for Federal District Courts', (1976) V (2) *Journal of Legal Studies* cited in Mangum, *supra* n36

³⁹ United States General Accounting Office, 'Federal Criminal Justice System, A Model to Estimate System Workload', Report to the Committees on the Judiciary, April 1991

⁴⁰ (1990) 1(6) *The Court Management & Administration Report* 1

now requires that the judicial branch assume responsibility for its future well-being and not rely upon the appropriate facilities being available when the time requires. Executive initiative cannot be assumed. In the United States it is not unusual for seven to eight years to elapse between first plans and occupancy of a new courthouse.⁴¹ The processes of government require due lead-in time and a sudden demand by the judiciary for a new facility is unlikely to receive the response the judiciary would like unless pre-planning has occurred. It cannot be imagined that any court would wish to have the experience of the federal courts in Massachusetts which, throughout the two hundred years of their operation, have been tenants at sufferance in a series of buildings designed for others, including The Bunch of Grapes Tavern, a Masonic Temple, a post office and an hotel!⁴²

In 1992 it was reported that the United States federal courts are housed in 660 facilities of which 200 had been identified as being out of space within the next 10 years. Given a 7 to 10 year governmental process for acquiring new buildings, a state of crisis is said to be disclosed by the long-range planning requiring the expenditure of in excess of \$US14 billion. Approximately 30% of all Federal Court facilities are said to be unable to house the immediate and short term needs of the federal judiciary. Because of those factors, the United States Judicial Conference directed the Administrative Office to develop a long range facility planning process.

As a result the Administrative Office of the United States Courts has embarked on a long-range planning study of each of the Federal Districts of the Federal Courts. The steps involved in each such study are as follows:

- (1) a time frame of 30 years is selected as the base for long-range planning with intermediate projections for 5, 10, 15 and 20 years.
- (2) prior to any meeting being called, the district is asked to prepare data on its court space and facilities in accordance with steps outlined in a handbook.

⁴¹ (1992) 24(4) *The Third Branch* 6

⁴² Douglas P Woodlock, 'The "Peculiar Embarrassment": An Architectural History of the Federal Courts in Massachusetts', (1989) 74 *Mass L R* 268

The emphasis is on the assumption by the district of responsibility for the long-range planning process.

- (3) a three day visit is then set down to enable officers of the Administrative Office to meet with relevant persons in the district. These include representatives of the judiciary, court registrars and other officials as well as representatives of the GSA.
- (4) at the meeting the pre-prepared data is presented and then fed into standard computer models and reduced to graphic and diagrammatic form. These direct attention to the broad trends in the data.
- (5) the assessment of existing facilities is based on building evaluation reports on each facility, whether owned or leased and whether stand alone or multi-occupied. These reports use a comprehensive range of headings to assess facilities, namely, plans, seismicity, structural features, grounds and approaches including parking, exterior, roof, interior, plumbing, electrical, heating, ventilating, air conditioning, facilities for persons with a disability, environmental controls, asbestos abatement, elevators, fire safety, historic preservation requirements, flood control and security of wiring for automated court facilities.
- (6) assumed workload increases over the time bases are also prepared. Oral discussion is directed to eliciting from those present the assumptions upon which these increases have been estimated. Reliance is placed on statistical reduction methods to provide conservative projections. The statistics of the district are analysed by the pre-prepared computer program which takes into account likely points of reduction in upsurges of particular types of litigation.
- (7) the studies do not purport to take into account what is called "the ripple effect": that is, initiatives by other agencies of government which impact on the courts. These unpredictables are sought to be picked up by bi-annual updates of the plan prepared for each federal district.

- (8) where the planning discloses the need for a temporary solution while a long range solution is found, encouragement is given for parallel action to be taken on both requirements.
- (9) a final draft business plan is then produced which contains solutions to the district's space and facilities needs. The solutions are not always prioritised, the significance of the report being as much in the data which it has collected and analysed as in the solutions which it recommends. Its effect is to direct the minds of those involved in the day to day administration of the courts to the long term needs of the district and to produce a plan which they "own" and can develop. Above all the plan provides the data necessary to support budget discussions as well as to inform proper planning.

None of this planning work touches the needs of the State court systems in which the overwhelming volume of trial work is conducted.

In the absence of long range planning, the occasion for space and facilities planning will arise in relation to the planning of new facilities or the renovation of or addition to existing facilities. It may be actuated by the growth in the business of the courts, age of existing buildings, the expansion of a court by appointment of additional judges, the creation of a new court or jurisdiction, the incorporation into the trial process of the requirements of modern technology, greater attention to aspects of security or the necessity for improved building efficiency.⁴³

Growth requires planning not only of the accommodation of judges and court personnel but also of the records of the court. That may entail the making of policy determinations concerning the most appropriate record keeping option for the court from among such choices as cabinet or shelf storage, mobile high density shelving, microfilming or use of optical disks.⁴⁴

Long range and short range planning may become inextricably mixed. The recent Western Australian experience in planning the future of the Supreme Court is

⁴³ (1990) 1(6) *The Court Management & Administration Report 2*

⁴⁴ (1990) 1(7/8) *The Court Management & Administration Report 1*

illustrative of this. The broad options facing the Court are either to move entirely from its present site, to add to the present building or occupy sites divided between the present building and proximate supplementary accommodation. The Working Party recommended a solution in the category of the third option. This was unanimously rejected by the Judges of the Court in favour of exploring the option of remaining in the present site with extensions. Ultimately, the Courts Planning Committee recommended that option. It has since been under investigation by the Supreme Court Planning Committee. The steps involved in this planning have been as follows:

- (1) The updating of a statistical study of the work of the Court until 2016.
- (2) The preparation of a functional study of the Court.
- (3) The preparation of a design brief on the Court.
- (4) The commissioning of the heritage study previously discussed.
- (5) The preparation of concept designs showing what may be possible on the present site to meet the needs disclosed by the functional study and the design brief in the period addressed by the statistical report and subject to heritage requirements.

Further planning lies ahead in, as yet, unspecified directions.

These planning processes have intermixed long-range and short-range considerations although all are directed to finding a solution for the long-range. The risk of the processes is that planners like planning and there is an ever present possibility in long-range planning of new factors being discovered by the planners to merit further study while the client body, in this case the Supreme Court, languishes in out-dated and inadequate accommodation. One role of the judiciary in the planning process is to remind the planners that, even in the case of public buildings, there is a client need to be met and thus to bring a balance between the legitimate interests of planning and the needs of the client.

PRIORITISATION

The determination of priorities in court space and facilities is an area in which members of the judiciary have an important contribution to make. In the AIJA Report, Church and Sallmann found:

"The predominant, current administrative regimes isolate each court from the others in the system, and leave to executive branch administrators the rationalisation of the demands of individual courts and the adoption of system-wide priorities. We believe that this approach has a tendency to aggravate the inherent tensions between different levels of courts. Under this traditional arrangement the incentive is for each court to attempt to maximise its own resources and interests in its dealings with the relevant executive department and cabinet minister, and to leave the other courts to fight their own battles. Since there is no appropriate forum which judicial officers can use to take a broader, court-system perspective, it is hardly surprising that such a view is rarely taken".⁴⁵

In their opinion, "...the greatest practical challenge...will be...to determine how the individual courts will relate to each other on matters of policy development and overall system-wide governance."⁴⁶ Nowhere is this problem better exemplified than in space and facilities planning. Where each court is dependent upon the executive for its planning (the "traditional" model), there is no institutional encouragement to the evolution of a view on behalf of the judicial branch as a whole. Such may come about accidentally, as the result of cross-court consultation emanating from the lines of communication between the chief justices or chief judges of the time, but more often it will not occur and the courts of the judicial branch will not be consulted other than in relation to what are perceived by the executive as the needs of that Court.

The Western Australian experience referred to earlier is instructive on this aspect. The Supreme Court Planning Committee was initially constituted as a committee of the Supreme Court to plan in relation to the future of that Court. In the early discussions of the committee it became apparent that the future of the Supreme Court could not be considered in isolation from the District Court and the Magistracy because any long-range planning for the Supreme Court had to take into account

⁴⁵ Church and Sallmann, *supra* n1, 77

⁴⁶ *Ibid* 76-7

projections of the jurisdiction of those other courts. Consideration was required of future jurisdictional shifts between the courts or coalescence of jurisdiction in whole or part. As a consequence, the Chief Judge of the District Court and the Chief Stipendiary Magistrate joined the Committee which became, as has been seen, the Courts Planning Committee. Through the reconstituted committee it became possible to plan the future of all court accommodation requirements on a jurisdictional rather than court basis. It rapidly enabled each court to obtain an understanding of the needs of the judicial branch as a whole and to arrive at a determination of priorities with those needs in mind. It also facilitated advice to the committee from the relevant departments of state on an across-court basis. The experience of this committee bears out what was said by Church and Sallmann and points to the desirability of such a solution being utilised in relation to the affairs of the judiciary in matters additional to space and facilities planning.

Judicial participation in issues of prioritisation has the significance that it allows the judiciary to contribute to a consideration of the policy determinations on which courthouses will be developed, where new courthouses will be established and where old courthouses will cease to be utilised. Where members of the judiciary move on circuit around a jurisdiction they inevitably have views on non-central business district courthouses arising from their experience in utilising the facilities. Clearly judicial opinion alone could not be determinative of such issues; to exclude it entirely is to engage in potentially deficient planning.

DESIGN

Location

The question of *location* of a courthouse is another issue which should attract proper judicial planning and forethought.

Closely related to any decision on location are considerations of whether the court concerned considers it is appropriately situated in relation to the legal profession upon which it relies for the progress of its judicial business. Other considerations which may arise are whether the court is prepared to be divided into separate locations,

whether it is prepared to be housed wholly or partly in buildings involving non-court tenancies and whether it is prepared to be accommodated in commercially leased premises. All these are issues to which the judicial branch as a whole and the judiciary of each court should give consideration if that branch is to assume more responsibility for its space and facilities. Of course, none of these issues arise in a vacuum and in most instances the limitations of premises and funds will narrow the choices considerably. It is prior to that point, however, that judicial planning is requisite if the judicial branch is to give meaning to the application of judicial independence in this particular instance.

Symbolism

Symbolism is a major factor to be considered in the planning for both location and design. What sort of symbolism is required is another matter. The choice will be affected by a myriad of considerations including the level of jurisdiction, whether the court is appellate or trial and the current public expectations of the court system as well, perhaps, as the court's perceptions of the public. There can be no question that "the exterior articulation of a courthouse and the relationship of the building to its surroundings expresses our concept of the role of the law in society."⁴⁷ No ultimate national court of appeal could be buried in leased accommodation shared with other tenants: its role demands symbolism, although what is acceptable is unlikely to follow the choice of Jefferson in basing the design of the building housing the original Supreme Court of Virginia on a Roman Temple.⁴⁸ As the level of the court decreases within the hierarchy, the case for symbolism either decreases or takes on another form. At the level of the Magistrate's courts what may arguably be needed are user friendly courts, capable of sustaining large public transience in surroundings able to provide food and child care, disability access and so on.

⁴⁷ Allan Greenberg, 'Symbolism in Architecture: Courtrooms', *The Public Face of Architecture: Civic Culture and Public Spaces* (1987) 210 213; cf Dennis E Curtis and Judith Resnik, 'Images of Justice' (1987) 96 *The Yale Law Journal* 1727

⁴⁸ Greenberg, *ibid*

Heritage and environmental factors

Issues of symbolism will frequently be bound up with considerations of the *historicity* of the present site as well as *environmental factors* impinging upon the appropriateness of extending or otherwise developing an historical site. Originally chosen for its central location, early court buildings often acquire important heritage value while ceasing to have the necessary attributes required for a court. Nevertheless, the long association of the building with the law and the legal profession may ground considerable sentiment for its retention as a court site despite its short-comings to its designated task. The issues can be explosive because they can place the judicial branch at odds with significant community groups seeking to protect these qualities in the building. Independence of the judicial branch requires, however, understanding of these issues which is unlikely to be forthcoming without continuity on behalf of that branch in the planning process. Consultation with the judiciary at the end of the process when the issues have emerged is more likely, it is submitted, to elicit a knee jerk response rather than a considered view developed over a period of time.

Historicity is one of the factors which long range planning takes into consideration in the United States. It may create judicial attachment to a particular building after the building has ceased to have the capacity to meet court requirements. It is a factor of great importance when renovations are contemplated to a building to improve its space usage. It may create public interest in preservation of a building on a site which otherwise would be available for redevelopment. It may lead to the relocation of an historic courtroom in a new building. It may result in historic courthouses being preserved by giving over their usage to community legal education or visiting facilities for the public. Just such has occurred in the case of the Old Courthouse adjacent to the Supreme Court of Western Australia in which the Perth office of the Francis Burt Law Education Centre is located with responsibility for managing student and public tours of the Supreme Court and the exhibits of the Law Museum.

The heritage study recently carried out in relation to the Supreme Court of Western Australia is illustrative of the issues which arise. That study had been preceded by two studies, namely a draft Conservation Management Plan for the Supreme Court and a Conservation Plan for the old Supreme Court. Despite the existence of these studies of the buildings on the Supreme Court site, it also became necessary that a heritage study of the site be carried out by the Heritage Council of Western Australia. Established by the *Heritage of Western Australia Act 1990*, the Council lacked funds to commission heritage studies. The budgeting of funds for planning of the Supreme Court provided a funding source for a heritage study of the site. It was accepted that the site, being located in a highly sensitive heritage area proximate to Government House and other buildings of colonial origin and situate in gardens dating from the founding of the colony, should be considered in relation to that precinct. The steps involved in the heritage study included settling the relevant precinct, defining the terms of reference, calling for submissions, consulting relevant bodies and holding public consultations.

Environmental and heritage issues require the planning of court space and facilities to be acceptable to a wide range of bodies in addition to bodies specifically charged with statutory responsibilities in relation to those matters. Examples are the local authority (in the case of central business development, the City Council); specialist environmental groups with an interest in the development of the location; and Aboriginal interests. A complicating factor in consultations with such groups is that none of them should have any current litigation before the Court in relation to which the approach to them for consideration of planning issues could be misconstrued by parties independent of the planning process.

In the case of the heritage study of the Western Australian Supreme Court it was a requirement that it be carried out in accordance with the Burra Charter (The Australia International Council on Monuments and Sites (ICOMOS) Charter for the Conservation of Places of Cultural Significance). This Charter was adopted by Australia on 19 August 1979 and has been revised on 23 February 1981 and 23 April

1988.⁴⁹ The Charter is supplemented by guidelines on cultural significance⁵⁰, conservation policy⁵¹, and procedures for undertaking studies and reports⁵². Importantly the Burra Charter defines "cultural significance" to mean "aesthetic, historic, scientific or social value for past, present or future generations."⁵³ In the case of historic courthouses there is wide scope for application of these factors. However, the charter is limited in its application to places of European cultural significance. Aboriginal cultural significance therefore arises outside the Charter. In the case of Western Australia the *Aboriginal Heritage Act 1972* imposes the relevant requirements.

A further interesting aspect of environment relative to design is the provision for art. In the United States the "Art in Architecture for Federal Buildings" policy of the General Services Administration allows for one-half of one percent of estimated cost of construction for new buildings and buildings undergoing repair and alteration to be expended on fine arts as an integral design feature.

Standards

Issues of *design and planning standards* have not usually been thought of as the general concern of the judicial branch. Judges generally have tended only to take an interest in such questions at the last moment before the design of their new chambers or courthouse is finalised. By that time the possibility of any major input is circumscribed. In that circumstance they are not asked to make any contribution on an on-going basis. At the same time their experience of the operability of courtroom designs should clearly be of major relevance to the evolution of designs for those facilities.

The factors to be considered in evolving design and planning standards are manifestly various, yet they are capable of being identified and catalogued in an

⁴⁹ The charter appears as Appendix 1 in James Semple Kerr, *The Conservation Plan*, National Trust, New South Wales, 1990, p 25

⁵⁰ *Ibid*, 29 (Appendix 2)

⁵¹ *Ibid*, 32 (Appendix 3)

⁵² *Ibid*, 35 (Appendix 4)

⁵³ *Ibid*, 25, Art. 1.2

objective fashion. In the United States, a 1972 symposium⁵⁴, while lamenting the lack of reference materials and functional standards for courtroom design, set out a standards and statistics check list for the design of court facilities. A 1973 study⁵⁵ defined the objectives of the function or procedure under consideration; described the operation of it, identified the activities, the people involved and the spaces required for each such function or procedure; and defined the environmental requirements of each. In relation to judicial objectives, it relied upon the themes of the need to maintain public confidence in the judicial system, the efficiency and competence of court operations and the need for courts to evince concern for human needs. In the same year the United States Department of Justice published a design handbook for administrators dealing with space management concepts, space management methodology, space standards and guidelines, manpower projection and planning, courthouse security, information systems, cost planning and program administration. In 1976 the National Clearing House for Criminal Justice Planning and Architecture published comprehensive guidelines.⁵⁶

In the United States concern over the philosophy of judicial design and its practical application became of such concern that in the late 1980's the Judicial Conference created a Space and Facilities Committee. Over a four-year period the Judges Design Group developed the United States Courts Design Guide, approved by the Judicial Conference in March, 1991. It is now used to provide direction for all those involved in the planning and construction of federal court facilities. Its development was based on the overriding principle that the federal judiciary itself must determine the requirements and standards for the design of federal courts.⁵⁷

⁵⁴ American Judicature Society, *Selected Readings: Courthouses and Courtrooms* (1972) 72

⁵⁵ The American Bar Association and The American Institute of Architects, *The American Courthouse* (1973)

⁵⁶ National Clearing House for Criminal Justice Planning and Architecture, *Guidelines for the Planning and Design of State Court Programs and Facilities* (1976)

⁵⁷ Michael S Kanne, Judge of the US Court of Appeals, 'Design for Federal Courts: A Practical Approach Based On Judicial Philosophy and Requirements', presentation to Harvard Law School Colloquium, November 16, 1991

The 1991 Guide contains general design guidelines addressing spatial relationship, accessibility and circulation diagrams, courtroom floor plans, space and furniture tables, architectural considerations, furniture and finishes, courthouse security, acoustical considerations, mechanical-electrical systems, automation considerations, and barrier-free access requirements. Specific guidelines are then set out for courtrooms, judge's chambers, ancillary facilities, jury facilities, the court library, the clerk's office, judiciary related offices, security services, court related facilities, building support services, and special facilities. Under each of these categories guidelines have been developed for such matters as users, functions, accessibility, space size, design requirements, security, acoustics, heating, ventilating and air conditioning, lighting and electrical, audio, visual, communications and data transmission.

A guide has also been produced by the National Center for State Courts in 1991 titled "The Courthouse: A Planning and Design Guide for Court Facilities". The Center worked in conjunction with The American Institute of Architects, The Conference of State Court Administrators, The National Center for Juvenile Justice and The American Bar Association. This publication lists as design issues of a general nature the following:

1. Impact of Special Casetypes and Changing Nature of Litigation on Courthouse Design
2. Accessibility of Justice and Accommodation of the Public
3. Site Selection
4. Consolidation or Separation of Court Facilities
5. Consolidation or Separation of Judicial and Detention Facilities
6. Flexibility of Design and Use
7. Adjacencies and Internal Location of Functions
8. Courthouse Circulation and Zoning
9. Grossing and Efficiency Factors
10. Renovation

As special design considerations it lists the following:

1. Design and Image
2. Court Organization and Administration
3. Courthouse Security
4. Needs of Persons with Disabilities
5. Fire, Life Safety, and Building Codes

6. Environmental Issues
7. Future Trends in Court Technology
8. Records Management and Storage
9. Courthouse Automation
10. Signs and Public Address Systems

Specific design components of each facility in the courthouse are also addressed.

A comparable publication was produced in March 1987 with reference to a particular courthouse under the title "Virginia Courthouse Facility Guidelines". In 1992 the National Center for State Courts published the "Retrospective of Courthouse Design 1980-1991" illustrating and explaining federal and state courthouse developments selected in co-operation with The American Institute of Architects' Committee on Architecture for Justice. In 1991 the Administrative Office of the United States Courts, Space and Facilities Division published the papers of a conference held under the title "Successfully Managing Major Design and Construction Projects." The American Institute of Architects is shortly to publish a report on the "First International Conference on Courthouse Design" held in 1992.

The point of referring to these publications is to highlight the importance of the evolution of developing standards as an integral part of the court planning process. Planning should not be thought of by the judiciary as a once-off exercise. Rather, it is to be perceived as an on-going exercise requiring constant attention and input from the judiciary over the years. The development of standards reflected in guidelines means that there is a repository for judicial and other perceptions of the needs of the courthouse which can be built upon and considered on each new application. It is for this reason that the current Western Australian planning proposes to lead to the production of room data sheets as the nucleus of the production of standards and guidelines for the building of courts in that State.

It is probably true to say that the executive model of judicial administration largely applicable in Australia has not been inducive to busy judges being encouraged to have an input in this area. Most members of the judiciary would have some opinions on the manner in which the facilities utilised by them could be better designed but more often than not, when immediate personal inconvenience is not involved, there is no

institutional arrangement to encourage them to express those thoughts. Their views lie suppressed lest they be thought to be a nuisance or interfering in matters which do not concern them. Assumption of a more evident responsibility by the judicial branch would encourage both immediate and long-range judicial input to design and standards, while leaving to the appropriate administrative machinery the development of the details.

Central to development of design standards is the question of the *type of courthouse and courtroom* considered to be desirable. One issue arising in relation to the type of courthouse is whether it is to be in the traditional mode or whether it is to be reflective of a modern desire to have adversarial and non-adversarial means of resolving disputes under the one roof. The latter has been described as the multi-door courthouse. Likewise, conceptions of the courtroom itself vary from time to time depending upon the level of formality required. That in turn will be determined by whether the court concerned is an appellate or trial court and the nature of its jurisdiction. Within the criminal jurisdiction there are bound to be differing opinions on the relative merits of, for example, different locations for the jury or witnesses reflected in proposals for courtrooms in the round, courtrooms with the judge's bench in the corner and courtrooms with witnesses located opposite the jury. Judges have important experience to bring to conceptions of how the courtroom communicates "its ideal model of a relationship between judges, prosecutors, jurors and others involved in judicial proceedings."⁵⁸

In 1973 the United States National Advisory Commission on Criminal Justice Standards and Goals recommended that:

⁵⁸ Greenberg, *supra* n47; citing Robert Gutman, *People and Buildings* (1972) 229

"Adequate physical facilities should be provided for court processing of criminal defendants. These facilities include the courthouse structure itself, and such internal components as the courtroom and its adjuncts, and facilities and conveniences for witnesses, jurors, and attorneys."⁵⁹

In the case of the courthouse, the Commission considered it "should be adequate in design and space in terms of the functions housed within and the population served."⁶⁰

In the case of the courtroom, the Commission said it:

"should be designed to facilitate interchange among the participants in the proceedings. The floor plan and acoustics should enable the judge and the jury to see and hear the complete proceedings. A jury room, judges' chambers, staff room, and detention area should be convenient to each courtroom."⁶¹

These recommended standards make apparent the intrinsic connection between physical facilities and the delivery of justice, whether in a criminal, civil or appellate context.

An important reason why standards should be developed is that they can be applied to all court developments within the jurisdiction. The existence of court approved guidelines means that future court growth only takes place in accordance with the guidelines unless the change has been considered, debated and approved. Innovations of a substantial nature in the lay-out of the court-room, for example, would only occur in this manner.

Innovations

In terms of development of overall standards for the courthouse the Model Court Project of the New South Wales Attorney General's Department and the Law Foundation of New South Wales is unique in Australia. That project sought to occasion rethinking of the relationship between the courthouse and its client community based around a selected courthouse (Blacktown). That project was recently completed with some results being implemented in other local courts.⁶² Issues which the project addressed were the formulation of "a general plan to renovate inefficient and antiquated aspects of the system, and of court buildings themselves,

⁵⁹ National Advisory Commission on Criminal Justice Standards and Goals, *Courts* (1973) 196

⁶⁰ *Ibid*

⁶¹ *Ibid*

⁶² Law Foundation of New South Wales, Annual Report, 1992, p.11

capable of meeting the demands of increasing numbers of consumers and deploying modern technology to facilitate their progress".⁶³ Issues dealt with included upgrading of premises, computers in the registry, introduction of a modular counter system, voice activated recording of evidence, additional staff resources, callovers, night court sittings, a review of court documentation, a courtguide interactive video information system, an explanatory brochure, a newsletter and increased productivity.⁶⁴

This link between the development of standards and redesigning fundamental concepts was noted by Chief Justice Rehnquist of the United States recently when he said:

"In the long run, however, planning must focus not simply on facilities expansion but also on innovative alternative methods of dispensing justice. Increased use of alternative dispute resolution services may change the future design needs and lead us to build justice centers instead of the familiar courthouses of the present.

Continued advances in computers and communications may lead to what people call the virtual courthouse where justice can be dispensed without all parties gathering in the same place. A renewed commitment to cooperation between the federal and state judicial systems may lead to more and more shared facilities joint state-federal justice centers--instead of a separate one for each. Depending in part on the ideas exchanged in this and similar forums the structures in which the justice of the future is dispensed may look very different from the courthouses we see today." ⁶⁵

The development of a range of facilities peripheral to courtrooms, the unpredictability of technological impact, the possibility that the courthouse of the future may accommodate facilities for non-adversarial resolution of disputes as well as adversarial conflict all dictate that planning and design have flexibility as their hallmark. Today's use may not be tomorrow's use but the space attained for use today may well accommodate conversion to tomorrow's need if built with that in mind.

⁶³ Attorney General's Department of NSW and The Law Foundation of New South Wales, *"The Model Court Project"*, (undated) p.7

⁶⁴ *Ibid*, *passim*

⁶⁵ Chief Justice Rehnquist, Welcoming remarks, First International Conference on Courthouse Design, Washington DC, 7-9 October, 1992.

TECHNOLOGY

A recent factor making judicial participation important is the advent of *technological considerations* in the building of courts. Such considerations include information processing, audio-visual techniques and surveillance equipment and extend to the impact on the courtroom of videotaping, television, electronic voice-activated court reporting and sound masking and audio equipment for jurors. Ultimately the fate of technology in the courts will depend upon its appropriate use and application by the judges.⁶⁶ Much can be done in using technology without judge involvement, for instance in the management of the courts and in the preparation and presentation of cases by the legal profession. The business of the courts, however, cannot be divided into sequential segments unrelated each to the other. The courtroom, including the judge or judges presiding, must be thought of as part of the continuum for technology to have appropriate application. Apart from the difficulties which the present generation of judges has with coming to grips with technological innovation, it is clear that the courtrooms of the future must always incorporate the existing state of technological art and potential, as best it can be estimated, to incorporate the developments of the future. By being asked to have some responsibility on an on-going basis for such factors the judiciary will be both planners of and learners from the process in which they thus participate.

Disabilities

In the United States the *Americans With Disabilities Act 1992* requires that state and local government buildings, including courthouses be accessible to persons with disabilities. Federal courts are subject to the same standards through the Uniform Federal Accessibility standards. Disabilities include all physical disabilities and visual and hearing impairment. They require both attention to design and to technology. Developments of interest of a technological character are "real-time translation" of proceedings (production on a screen of printed translation of all that is said seconds later); computer software permitting searching of the real-time transcript; video tapes

⁶⁶ (1990) 1(6) *The Court Management & Administration Report* p. 5-6

of the court proceedings that use the real-time translation as captions or subtitles for what is being shown on the tape; computer software which permits integration of video and text transcripts with other information in the court's case management data base; and computer creation of Braille versions of court proceedings.⁶⁷ In Western Australia the *Disabilities Services Bill 1993* proposes to continue provisions of the *Disability Services Act 1992* whereby public authorities are required to prepare and implement a disability service plan to ensure that services provided by the authority further the principles scheduled to the Act.⁶⁸ These include the principle that "people with disabilities have the same right as other members of society to receive services in a manner which results in the least restriction of their rights and opportunities".⁶⁹ This has the potential to impact on the planning of court space and facilities.

MANAGEMENT

Management information and statistics

The planning of space and facilities is intimately related to the maintenance of *management information*. The ability to plan requires analysis of the functions and mode of operation of the court. All too frequently the data maintained fails to yield all the information needed for planning purposes. Involvement of the judiciary in planning processes is more likely to lead to the data collection activities of the courts being oriented to collection of information relevant to planning requirements.

The need to produce reliable statistics necessitates that attention be given to the method by which data is collected within a court. Usually the data will emanate from many sources both within and without the registry. The data collection points will have grown without relationship to each other or to the planning purposes ultimately to be served. Some data collection may need redefining or relocating. The advent of computers at both judicial and managerial levels within a court can assist the reformulation of data collection. Even if the data within a court is well defined and

⁶⁷ Reported to the First International Conference on Courthouse Design, Washington DC, 7-9 October 1992.

⁶⁸ *Disability Services Act 1992*, s9(1)(a).

⁶⁹ *Ibid*, Schedule 1, para6.

collected, there remains the issue of how well it relates to data of other courts in the same jurisdiction or courts of equivalent status in other jurisdictions.

The AIJA has endeavoured for some years to promote uniform statistics and it is to be hoped this work will come to fruition. Its recent report on Court Management Information provides an analysis designed to heighten appreciation of the collection and uses for such information.⁷⁰ It requires careful consideration with reference to the planning applications of the information collected.

Budget Process

The impact of *the budgetary process* on the planning process is not necessarily always understood by the judiciary. Experience with the process makes apparent that demands resulting from the latter process are most unlikely to be met on the sudden. Planning itself will not proceed unless appropriations have been made in that behalf. Furthermore, the planning progress must proceed with the budget timetable well in mind. It is of little use completing an assessment after submissions for the forthcoming budget have been completed; the proposals could lose a year in implementation or further work. *Synchronisation* with other processes of government, and most predominantly the budget process, is therefore a necessary feature of the planning process and imposes its own timetable on judicial and other decision-making in the planning process.

The need to obtain funding will also involve the judicial branch in demonstrating the need for the courthouse to the public: that is, in the task of *politically identifying the need for the expenditure*. Absent the need, appropriation may be unlikely. However, when the need is present it must still be recognised by the other arms of government and that requires the judicial branch to ensure appropriate presentations of its case are made.

There is authority of the Privy Council in *Attorney-General for Jersey v Capelain*⁷¹ that a court or a judge has no power to commit the exchequer to the

⁷⁰ P M Lane, *Court Management Information: A Discussion Paper*, Australian Institute of Judicial Administration (1993)

⁷¹ (1842) 4 Moo PC 37 (13 ER 214) cited by McPherson, *supra*, n32, 180

expense of providing essential alterations or improvements to court buildings, or to direct that the cost of doing so be defrayed out of public revenue, although that decision depended upon the particular constitutional provisions pertinent to the Island of Jersey. In the United States, however, litigation has in the past been instituted in New York and Florida by the courts with a view to the restoration of the court budget in the face of substantial cutbacks by the executive branch.⁷² Those actions are founded on the contention that there is an inherent power in the courts to compel budget appropriations for the reasonable needs of the judiciary in carrying out constitutionally mandated duties.

Alternative financing

Development of court space and facilities has traditionally required public funding. There are sound jurisdictional reasons for this: courts cannot be beholden to landlords who may be litigants before them; court business cannot be intermingled with commercial business being conducted in the same premises. The necessary independence of courts requires they be set apart.

Consistently with these sensitivities, experience in the United States shows a recent willingness to explore a wider variety of public financing techniques and to allow private development of such facilities under appropriate circumstances. Constraints on the availability of public funds have resulted in a more imaginative approach to courthouse funding. The recent development of the Victorian Magistrate's Courts has reportedly occurred through private funding and may foreshadow such developments in Australia. It may be appropriate for the AJJA to stimulate further examination of funding techniques with a view to ensuring courts do not fall behind appropriate standards in times of financial stringency.

Judicial involvement

Whether the judicial branch should merely be more frequently involved with these issues or whether it should assume formal responsibility for them will be

⁷² eg, *Wachtler v Cuomo*, unreported, 1991, New York State; *Beckert v Warren* (1981) Pa; *Carroll v Tate* 442 Pa 45 (1971)



determined in relation to the whole range of issues affecting inter-branch relationships. The case for more extensive involvement in some way is, it is submitted, overwhelming. The case for judicial branch assumption of responsibility rests ultimately upon wide considerations but it is suggested that unless and until such responsibility is assumed there will not be the necessary institutional encouragement to the members of the judiciary to participate to the extent the planning of the future of the branch dictates.

One irony of these issues affecting judicial independence is that the application of the principle in favour of greater judicial branch assumption of responsibility occurs at a time in which the judiciary is hard pressed for time and overburdened by the judicial business of the courts. Adoption of responsibility in application of the principle of judicial independence requires that the judiciary discard any notion that the function of a judge is solely to try cases in space and facilities provided to the appropriate standard at the right time by an unseen and unheard executive operating in a distant building.

It is no answer to any suggestion that the judicial branch should be more responsible for its own space and facilities that the judges may inhibit the planning process or bring to it dampening and uncomprehending attitudes grounded in the unexamined practices of the court past. The case for judicial branch responsibility is made in terms of the principle of judicial independence and it is no part of the proper application of that principle that the likely content of a contribution (if it be such) be taken into account. If there be any truth in that prediction of judicial approach, it is well met by the response that participation in the process would expose the judiciary to the planning issues involved and enable it to see the issues which require addressing.

Non-judicial and Public involvement

The case for judicial branch responsibility of space and facilities planning is not a case that the judiciary alone should plan those facilities. It is a case that the judiciary, as a significant part of the process of the administration of justice, should be participants in it so that the contribution of their experience can be fed-in during the

long process of planning and not merely consulted on selective issues or at a final stage. Participation in that manner will expose the judicial branch to considerations raised by others in the process including the users of the court system - among whom are the legal profession and community groups, budget managers, architects, engineers and environmental planners. To espouse enhanced judicial participation or direction of the planning of court space and facilities is not to espouse the exclusion or diminution of any of these other legitimate interests in that planning process. It is to urge that the judiciary assume a role in the process from which, in large measure, they have been isolated.

It is certainly not the case that improved judicial branch participation should curtail public input to the planning process. Courts are more and more required to relate successfully to the community they serve. Whether the community be national, state or local, a court will wish to be thought well of in its physical housing by those it serves. Whether that can now-a-days be achieved without provision of child care, disability facilities, restaurants or cafeterias and so on, is a matter to be considered in each particular circumstance. What is important is that the community should be heard by the court and the community should hear the court on these issues. Indeed, an important aspect of judicial contribution to space and facilities planning is the proper identification of all the parties having an interest in the planning process. Obviously interested parties are the judges, their staffs, the Registrars, the court staff, the security staff, the police, the media, the prosecutors, the legal profession, the budget managers, the architects, the engineers as well as the public and the arms of government relevant to the place of the court in the court hierarchy. Emphasis upon the need for judicial involvement in the issues of space and facilities planning should not be taken as in any way intended to minimise the interest of these other interested parties. As has been said, "at the bottom line it is the public that is most critically affected."⁷³

⁷³ Howard Stern, "How Lawyers and Judges View the Problem" in The Institute of Continuing Legal Education Michigan, *Emerging Trends in Courthouse Planning, Design, Administration and Funding* (1975) p18

CONCLUSION

The purpose of this paper has been to examine the application of the principle of judicial independence in the context of the planning of court space and facilities. It has aimed to stimulate thought and not to prescribe specific answers. It suggests that space and facilities are fundamental to the proper functioning of the courts and have largely been out of court control and input. Without ongoing planning, the courts lack the expertise and preparedness to make appropriate inputs at the time the planning process requires it and are ill-prepared to match the requirements of on line budgeting periods. Examination and experience in the area also demonstrate that such planning should not be limited to a particular court but should be organised so as to encompass all courts within a jurisdiction so that issues of priorities can be resolved within the branch. Consideration of these issues reinforces the finding of Church and Sallmann that in Australia "...structures will need to be set up to enable judicial officers to make policy decisions and to oversee the administration of their courts."⁷⁴ Nothing better exemplifies the present problems and the future possibilities in the more fulsome assumption by the judicial branch of the responsibilities arising from judicial independence than the role of the judiciary in relation to the space and facilities in which judicial business is conducted.

⁷⁴ Church and Sallmann, *supra* n1, 77

